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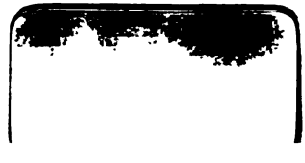

Marriage a Covenant--Not Indissoluble;

OR,

The Revelation of Scripture and History.

BY THE

REV. J. PRESTON FUGETTE,

Author of "The Future Recognition," "The Discourse at Capernaum," &c., &c.

Homo sum, et humani nihil a me alienum puto.—*Terence.*

Non nobis solum sed toti mundo nati.—*Rokeby.*

BALTIMORE:
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To

THE NATIONAL DIVORCE REFORM LEAGUE

I DEDICATE THESE PAGES,

Not as claiming for them the sanction of their high authority, but to record my sense of the eminent services which they have rendered to morals, and the family, and the state.

Nisi Dominus frustra.

Direct us, O Lord, in all our doings, with thy most gracious favor, and further us with thy continual help; that in all our works begun, continued, and ended in thee, we may glorify thy holy name, and finally, by thy mercy, obtain everlasting life; through Jesus Christ our Lord. Amen.

Stern daughter of the voice of God!
O Duty!

Search for the truth is the noblest occupation of man; its publication a duty.—*Madam de Stael.*

He who does not speak the truth freely, is a betrayer of the truth.—*Inst. Epil.*

Nihil est veritatis luce dulcius.—*Cicero.*

Unerring Truth, be thou my constant guide,
Whilst here on earth I'm destined to reside;
Shine in my soul, enliven with thy rays
My every thought, my actions, and my ways.

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CHAPTER I.

An Amendment to the National Constitution.

A BOARD OF CONCILIATION IN EVERY STATE.

In the early days of Christianity, the Church was torn and distracted by many heresies. This was the natural result of a misapprehension of the spirit and intent of the Gospel, on the part of those converts who had been trained in the heathen mode of thought and philosophy, raking among the tangled roots and dead leaves of false religions.

And as it was in respect to doctrine, so in regard to the ordinance of marriage as affecting the spiritual and intellectual parts of man's nature. The heathen philosophers teaching that the flesh is a mean, unworthy thing, that the body is the prison of the soul, whose escape therefrom is a happy

release, as a natural sequence decry matrimony, and exalt the single state. The seeds of an ascetic nature appear in the "Republic" of Plato. Therefore it was that, those converted from Heathenism, bringing their false ideas respecting the union of man with woman into the domain of Christian theology, looked upon marriage as pollution, a thing to be deprecated and discouraged. And, naturally misinterpreting certain passages of Scripture which speak well of asceticism or a single life, these converts with Gnostic ideas and wearing their traditions like a chain used their voice and pen to the influencing Christian public opinion against wedlock. "The wisest are not always wise."

They were aided by others who were influential in forming ecclesiastical and popular sentiment, and so the ideas gradually forced their way that it was better not to marry at all, that the man or woman who had never married, but remained pure, was a nobler and more exalted being than the man or woman who had married—"when having trained themselves to despise the flesh," [A] says Methodius, "they sail fearlessly into the peaceful haven of immortality."

(A) Tertullian speaks of *wives as women of the second degree of modesty who have fallen into* wedlock.

We are told by Gibbon that "the practice of second nuptials was branded with the name of legal adultery" by the fathers of the early centuries; and that those of either sex who committed this offense were soon excluded from the honors and even from the alms of the Church.[B] It became part of the canon law that second and third nuptials should not be countenanced by the presence of the clergyman at the marriage feast.

And since the clerical order was looked up to as a sacred one, it was thought expedient, if not necessary, that those connected therewith should have little or nothing to do with matrimony! The clerical man must possess a peculiar sanctity; he must above all, show control over the lusts and passions of earth, and so *refrain from marriage! Risum teneatis, amici?* These leaders of public opinion needed "*the expulsive power of a new affection.*"[C]

And the eventual result? See: in the Greek Church, the Bishop was not allowed to marry, while a presbyter who entered the ministry married was permitted one wife—not remarriage. In the Latin Church, the celibacy of all in Holy orders

(B) Decline and Fall of the Roman Empire, Vol. I, p. 314; II, p. 186.

(C) The Jewish priests and high priests lived in marriage. St. Paul commands the selection of married men for presbyters and deacons. (I Tim. iii, 2 12; Titus i, 6.) Matt. xix, 12; I Cor. vii, 1—7.

was decreed.[D] A married man intending to become a priest, separates from his wife—substantially a divorce *a mensa et toro.* "A delusion, a mockery, and a snare."

In time the Roman Communion ordained Matrimony a Sacrament and the indissolubility thereof. There are numerous proofs, however, that the strict rule of the indissolubleness of marriage met with obstacles in its way toward universal recognition in the Western Church; and in many instances where marriage was prohibited by canonical law, a sentence of nullity left the wedded ones free to unite themselves to others.[1] In some countries the Holy synods were willing to tolerate departures from the established (?) rule.

While in the Western Church marriage became indissoluble, so to say, and civil law was shaped in conformity with ecclesiastical judgments, in the East the case was otherwise: the civil law conformed in some respects to the laws of Rome under

(D) The Council of Rome, A. D. 1059, under Nicholas II, ordered all clergy already married to *divorce their wives;* see also the first Lateran Council under Callistus II, A. D. 1123. The second Lateran Council under Innocent II, A. D. 1139, decreed that Bishops, priests, deacons, subdeacons, regular canons, monks, professed religious, and nuns who have married, are to be separated from their wives and husbands. For such coupling as this they did not count to be married.

(1) King John (beginning of 17th Century) readily obtained a dispensation for re marriage, after shamelessly repudiating his lawful wife, with whom he had lived for 11 years Simon de Montford (in the reign of Henry III) likewise obtained a dispensation for a second marriage, while his lawful wife was still living.

the emperors. Remarriage in case of divorce was allowed somewhat freely, and to this legislation the practice in the Church was accommodated.

And so things remained till the sixteenth century, when the decision of the indissolubleness of marriage was reversed by the voice of the Reformers, who maintained that for various causes the bonds of matrimony might be dissolved, and the innocent party remarry. In the words of Whitby, "Where it is lawful to put away a wife, it is to marry again." This question is *now* before us, and it "cannot be skipped."

Much has been said of the necessity of upholding the indissolubility of marriage, lest excess run riot in this thing. And yet, every student of history knows wherever the indissolubleness of wedlock has been the most rigidly taught and enforced, *there adultery has had free license.*

> But faith, fanatic faith, once wedded fast
> To some dear falsehood, hugs it to the last.

Illegitimacy in this country is far less than in England, where, in the last century, it was only through an Act of Parliament that a divorce could be obtained, and now can be gotten only through

A theory of marriage indefensible and a condition resulting from divorce unrestrained menace society. An untrue view of the matrimonial covenant I deprecate and loose morals I deplore.

the civil courts (by the law of 1857) for adultery and crime.

In Roman Catholic countries many live together without being married, as they do, for instance, in the French colonies in Algiers, and, as statistics show, in Paris, where the principal foundling asylum receives over three thousand infants every year. How is it in Spain? In Italy?

In South Carolina, where the law allows no divorce, *concubinage* is winked at, and the white wife had often in the days of slavery to endure the infidelity of her husband, as something which public opinion did not severely rebuke. "Not only is adultery not indictable there," says Bishop, "but the Legislature has found it necessary to regulate by statute how large a proportion a married man may give of his property to a concubine." On one occasion, Judge Nott, of the State Court, said "In this country * * * we sometimes see men of excellent character unfortunate in their marriages, and virtuous women abandoned or driven away homeless by their husbands, who would be doomed to celibacy and solitude if they did not form connections which the law does not allow." And this in *virtuous* South Carolina!!

The remarks of the learned Judge remind of the celebrated Origen (third century) who declared that he "knew cases" in which the *ecclesiastical authority* had permitted a woman to marry while her former husband was living (confessing that the practice was not according to Scripture,) but refusing to condemn it because he considered it to be a necessary concession to human weakness.

The truth is, and the experience of mankind generally verifies the position, when you go to extremes, there is always a reaction, or excess in one direction or another. "*The rigor of the law may be the greatest wrong.*" Do not "sail beyond the sunset" in pursuit of the impracticable. Bind not that which God has loosened, nor loosen that which He has bound. *In medio tutissimus ibis.*

Do not try to elevate the ordinances of men into commandments of God; it is a crime to add the conceits of human fancy to the moral principles of divine government. Ah, there have been too many adventures of this sort in the history of the Christian Church! "Fools rush in where angels fear to tread." Perish assumption! perish conceit! perish egotism!

And here I beg to say, that, the variety of opinions in regard to the subject matter now

under consideration, entertained by those professing to be followers of the Lord Jesus Christ, is a source of perplexity and bewilderment to those who honestly desire to know the truth.

The Methodist Episcopal Church acknowledges three several causes for absolute divorce; the Presbyterian Denomination says adultery or desertion justifies the dissolution of the marriage bonds; the Protestant Episcopal Communion declares only adultery dissolves the ties of wedlock; and the Roman Catholic Hierarchy proclaims marriage to be indissoluble, although when both the parties to the contract are unbaptized, or if one be a heretic, Jew, or heathen, the "sacrament" may be declared null and void.

More, the Ritual of the Holy Roman Church says: "I, N, take thee N, to my wedded wife, to have and to hold, * * * till death do us part, *if Holy Church will it permit*; * * *" "I, N, take thee N, to my wedded husband, * * * till death do us part, *if Holy Church will it permit;* * * *" The words in italics imply the Church's authority to dissolve the bonds of matrimony at will!! Be it remembered: In Brazil (A. D. 1870, about) all marriages solemnized by the Protestant Clergy were pronounced

by Roman Catholic Bishops to be invalid and of no force!

While the Christian Church is divided on this question, the various States in their respective statutes show even greater diversity of opinion, having many conflicting laws on the subject. There are forty-six different codes, giving forty-two causes for absolute divorce, not to mention the "omnibus" clause. "Which frameth mischief by statute."

The most sacred of contracts is recklessly violated, and the most tender of human connections is degraded to a transient society of profit or pleasure!

Love comforteth like sunshine after rain,
But lust's effect is tempest after sun;
Love's gentle spring doth always fresh remain;
Lust's winter comes ere summer half be done;
Love surfeits not, lust like a glutton dies;
Love is all truth, lust full of forged lies.

And be it kept in mind, a divorce obtained in one State for what is esteemed in that State to be a good and sufficient reason, may be under the ban of public sentiment in the adjoining Commonwealth. This ought not so to be! *Ajustez vos flutes.*[B]

(B) Twenty-three States have now created commissions on uniform legislation on Marriage and divorce, who are to act jointly in preparing a code of laws to be recommended to all the Legislatures for adoption.

In view of these deplorable things, I suggest the conferring on the Federal Congress, by amendment of the Constitution, authority to enact a general law of divorce, which shall curb unbridled and vagabond lust, for all the States and Territories in our National Union. "Honest liberty is the greatest foe to dishonest license." [1]

I also suggest that, in each and all these States and Territories there be appointed by the respective Legislatures a BOARD OF CONCILIATION, which shall use its kindly offices to reconcile the applicant for divorce and others interested.

In the Protestant States of Germany a year's notice has to be given where married persons wish to put an end to their contract, and in the interval the magistrate of the district and the local clergyman endeavor to induce the couple to reconsider their intention to separate.

This system is pursued with great advantage: It gives time for reflection, for the making up of temporary quarrels, for the intercession of children, and the wise advice of friends, and so often pre-

(1) The marriage and divorce laws of these United States are a stench in the nostrils of heathendom—to say nothing of the christianized world. This has come about through the application of "local option" to a matter which would very much better have been left to the general government, and which will sooner or later have to be taken away from the jurisdiction of local legislatures and Courts.—The Churchman, Aug. 3, '95.

vents the occurrence of divorces except for really grave reasons.

Let *everything* possible be done to lessen the ills and remove the perils that face us where'er we turn! *Salus populi suprema est lex.*

Wilcox tells us: "If our common law had been under the exclusive protection of the National Congress, and not subject to modification by the State, its provisions on divorce would have changed much less; if the common law of England might have been modified by each county, the law of that country would doubtless, be much laxer."

In Switzerland, formerly, each canton controlled the subjects of marriage and divorce, but in 1874 the Constitution was revised and the Federal authorities empowered to pass a national marriage and divorce law. The Swiss were seekers after wisdom, which is never sought in vain. In the words of Night Thoughts:

> Wisdom, awful wisdom! which inspects,
> Discerns, compares, weighs, separates, infers
> Seizes the right, and holds it to the last.

CHAPTER II.

One Moral Code.

Let us hold that right makes might, and firm in that faith so long as life lasts, let us to the end dare to do our duty as we understood it!—*Lincoln.*

The Bible makes no distinction between the culpability of the man and the woman taken in adultery: stoning is for both. Levit. xx, 10; Deut. xx, 22.

The Christian religion condemns adultery equally in both sexes. The guilt in either case is the same. Innocent, Pope (A. D. 402—417.)

The word man contains woman. I Cor. vi, 16, applies equally to both sexes. St. Jerome (A. D. 340—420.)

What is unlawful in a woman is unlawful in a man. St. Ambrose (A. D. 340—397.)

In a word the moral law is no respecter of sexes. *One code of morals for male and female.*[A] Equal

(A) Truth forever on the scaffold,
Wrong forever on the throne.

Women admit the seducer into their houses, while their doors are shut against the victim of his guilt; *treat the seducer as you do his victim.*

privileges, equal rights, equal justice to all! would not be "a great insurrection of human intelligence," as Guizot calls the Reformation, but a *superb application of equity in human affairs.*[B] Xerxes offered a reward to any one who would invent a new form of pleasure and here we have it! *Equity in human affairs!*

What is the ideal government? Was the question asked at the Court of Periander of Corinth, and seven sages gave their respective answers. Bias said: "Where the law has no superior." Thales: "Where the citizens are neither too rich nor too poor." Anacharsis replied: "Where virtue is honored and vice detested." Cleobulus: "Where the subjects fear guilt more than punishment." Chilo replied: "Where the laws are regarded more than the orators." But Solon said: "*Where an injury done to the meanest subject is an insult upon the whole constitution.*" Combine all these tests, and behold them, more than met, in the *application of equity in human affairs.*

(B) There can be neither Jew nor Greek, there can be neither bond nor free, there can be no male and female: for ye all are one in Christ Jesus. Gal. iii, 28.

Constantine defined adultery as sacrilege, and punished it with death. Canon law and early ecclesiastical discipline point in the same direction. The Council of Ancyra (314) refused the eucharist to the *adulterer*, even at the moment of death; and the Sixth Council of Orleans deposed every clerical who had committed adultery, and locked him up for life in a monastery. The Schaff-Herzog Encyl. Vol. I, p. 31.

"Reciprocity. What you do not want done to yourself do not do to others," said Confucius. The banner over us is the Golden Rule. March!

> And where the vanguard rests to-day,
> The rear shall camp to-morrow.

CHAPTER III.

THE

Protestant Episcopal Church.

CANON XIII.

OF MARRIAGE AND DIVORCE.

This canon reminds of our studies in Logic: Either of two propositions so related that the truth of either involves the falsity of the other, and the falsity of either the truth of the other; as, the propositions, "The man is guilty" and "The man is not guilty" are *contradictions*. Its inconsistency with itself is notorious.

What right has the innocent person in a divorce for adultery to marry again if her former marriage is not broken? If the divorce has broken that marriage, where is the right to refuse marriage to him who *was* but is *not* now her husband? The former marriage is *null* and *void*, or it is not.

In the words of Luckock: "If the original tie is severed, it is severed for both; A cannot be released from B, while B is still bound to A, and to sanction the marriage of A to C, while B is forbidden to make a new contract with D, is wholly illogical. Both are free, or neither." (The History of Marriage, p. 182.)

I am of the opinion; that, "They shall become one flesh" implies they are bound together in an exclusive sexual fellowship so long as the marriage continues, and no longer. In this conviction, I am sustained by the Schaff-Herzog Encyclopædia, which says: "One may still ask whether the guilty party, divorced on account of adultery, may marry again: The answer must be affirmative, in so far as the adulterer or adulteress ceases to be one flesh with his or her former partner." (Vol. I, p. 648.)

There are few canons of ancient Councils bearing upon the question of remarriage after divorce, and yet we know that adultery dissolves the marriage. St. Chrysostom (Hom. xix, I Cor. vii) says, that "The marriage is dissolved by adultery; and that the husband after he hath put her away, is no longer her husband." Theodoret said of a wife, who violated the laws of marriage: "Therefore (the Lord) required the bond or tie

of marriage to be dissolved." St. Hilary tells us that, "Through adultery the marriage ceaseth, and is dissolved." Hear Amesius: "By adultery two are made not to remain one flesh. * * * By adultery the very essence of the contract is directly violated; but, the contract ceasing, the bond depending on the contract necessarily ceases. It is against all reason, that all matrimonial duties should be forever taken away, yet the bond or obligation to those duties should continue.[A]

On this subject see Lanctantius, Hierome, Theophylact, and others.[B]

St. Basil in his canons, approved by a General Council favored remarriage. Lancelot, Inst. Jur. can. acknowledges that divorce is a dissolution of marriage. Bishop Cosin (most learned) a leader of the Anglo-Catholics, A. D. 1594—1672, says that to give the bill of divorce is to break or cut off the marriage—with this agree the ancient canons, Councils, and Fathers of the Church.[C]

The civil law permitted remarriage of both parties, and the Church generally followed the civil law in this matter. The laws of Ethelbert, estab-

(A) Library of Anglo-Catholic Theology. Cosin's Works, Vol. IV, p. 492.

(B) Says Epiphanias: "When separation has ensued for whatever ground, fornication, adultery or other evil cause,—him the Word of God censures not, though he be joined to a second wife, or a wife to her second husband."

(C) Library of Anglo-Catholic Theology. Cosin's Works, Vol. IV, p. 493.

lished in the time of Augustine for England, A. D. 597, enact that an adulterer is "to provide another wife with his own money" for the injured husband, "and bring her to him."

The Eastern Bishops, in the Council of Florence A. D. 1439, were for marrying again. All the Greek Church allow remarriage after divorce; Erasmus too. Bishop Thornborough, (Church of England) married after divorcing. In England to-day the law of the land permits the remarriage of both parties when a divorce has been judicially declared.

CHAPTER IV.

DIVORCE;

A MENSÂ ET TORO—A VINCULO MATRIMONII.

In ancient times whenever a woman was separated from her husband, she was regarded as at liberty to marry. Moses in three several cases made laws respecting divorced women in precisely the same terms and were used with reference to widows. (Levit. xxi. 14; xxii. 13; Numb. xxx. 9). The bill of divorcement, called in Hebrew Get, in practice was always written in a prescribed form—the essential part of it says the Mishna is: "Thou art herewith permitted to be married to any other man." The Rabbi Jehudah declares the vital part is: "Thou hast here from me a writing of separation and a document of dismissal, that thou mayest go and be married to any man thou mayest like."

It became customary (although it was not required by law) to produce the writing of divorce-

ment in a court of justice for the purpose of authentication, like the acknowledgment of a deed in the United States. A similar practice prevails among the Athenians, and probably other ancient people.

Our Saviour addressed men who had never heard of a separation which did not dissolve the marriage. Josephus says that in his time one of the objects of a bill of divorcement was to set the woman free to marry, and to facilitate her marriage by the assurance that her husband would have no further connection with her. Modern Jews say "we have the evidence of the Talmud that Moses granted to a divorced woman full liberty of remarriage."

In the Roman as in the Hebrew law there was no distinction between a separation *a mensa et toro* and a divorce *a vinculo matrimonii*. A woman who was put away, for any cause, was free to go and be another man's wife.

And since no separation, except one which involves the power of marrying, is mentioned in Scripture, divorces *a mensa et toro* are contrary to both the Old Testament and the New. Bishop says that "anciently, judicial divorces were probably from the bond of matrimony."

Indeed, that the distinction between separation *a mensa et toro* and divorce *a vinculo* was not formulated in the early Church is unquestioned. Bishop Cosin declares that "the distinction betwixt bed and board and the bond is new, never mentioned in the Scriptures, and unknown in the ancient Church, devised only by the canonists and the schoolmen in the Latin Church (for the Greek Church knows it not) to serve the Pope's turn the better, 'till he got it established in the Council of Trent; * * * "and * * * that the separation from bed and board doth not dissolve the bond of marriage * * * is a distinction without a difference, newly invented by the canonists and schoolmen, and never heard of in the Old or New Testament, nor in the times of the ancient Fathers, who account the separation from bed and board to be the dissolution of the bond itself."[B]

In the reign of Edward I is assigned the original distinction between divorce *a vinculo* and divorce *a mensa et toro.* The former was a judicial sentence declaring that, for certain reasons, the marriage had not really taken place—a declaration of nullity *ab initio;* the latter "*a conditional suspension of the duties of marriage.*"

(B) Library of Anglo-Catholic Theology. Cosin's Works, Vol. IV, pp. 492, 500.

In Henry VIII's reign, a Commission, embracing Bishops, divines, lawyers and civilians was appointed to draw up canons on a great variety of questions. The result of their labors was published in Elizabeth's reign, under the title of *Reformatio Legum Ecclesiasticarum*, digested under fifty-one heads, several of which dealt with marriage and divorce. It proposed to *abolish* divorce *a mensa et toro*, and to *make it absolute* in cases of adultery, desertion, continued absence, cruelty and savage temper. Liberty of remarriage was to be granted to the innocent. This new code of laws was not enacted.

Bed and board, or cohabitation, belong to the essence and substance of matrimony, which made Erasmus and Bishop Hall say, that the distinction of those two from the bond is merely chimerical and fancy.

The modern Latin law of divorce, which allows four causes of divorce *quod vinculum*, and six causes of divorce *quod torum* was unknown to the early Church.[c]

I here declare that mere separation—from *bed* and *board*—which was unknown in ancient times,

(C) Smith's Dict. of Antiq. Vol. II, p. 1111.

ought not to be countenanced in this last decade of the nineteenth century.[D]

It severs the true bond of marriage, which is, for all practical purposes, dissolved.[E] The couple do not cleave to each other and all the positive duties of wedlock are abandoned, particularly the children losing the benefits to which they are entitled. They disregard the reason assigned by St. Paul (I Cor. vii. 2, 10, 11) why men and women should marry, and are *exposed to temptation and sin.*

They are married only in name : husband without a wife, wife without a husband. Their abnormal position is only an obstacle to another marriage, only a negative of the power to marry—an *anomaly that punishes the innocent more than the guilty and is utterly abhorrent.*

No greater grief than to remember days
Of joy when misery is at hand.

——perhaps the dreaded future
Has less bitter than I think ;
The Lord may sweeten the waters
Before I stoop to drink,
Or, if Marah must be Marah,
He will stand beside its brink.

(D) Only sixteen States in our National Union authorize partial divorces or separations. In nearly all the States of Germany judicial separation has been abolished by Imperial enactment, and the grounds on which it had been previously decreed are considered as sufficient for absolute divorce.

(E) See A Treatise on the Christian Doctrine of Marriage : Hugh Davey Evans. My loved friend, the saintly Evans!

CHAPTER V.

The Other Extreme.

The dogma of the "indissolubility of marriage" was advanced and taught by the Church, in the times that the popular mind accepted the idea that the Gospel of Jesus embraced within its teachings the doctrines of the Papacy, the priesthood, the infallibility of the Church, purgatory, the real presence, seven sacraments, the celibacy of the clergy, the supreme power of the Roman pontiff as king of kings and lord of lords, and other things not necessary to mention here. "Error supports custom, custom countenances error." The progress of rivers to the ocean is not so rapid as that of man to error, says Voltaire.

As certain passages of scripture were distorted from their original sense and made, through sophisms fit to give weight to smoke, to teach the doctrines just enumerated, so the text in St. Matthew xix. 9, 10: "Whosoever shall put away his wife, except for fornication, and shall marry

another, committeth adultery: and he that marrieth her when she is put away committeth adultery," was interpreted to mean marriage is indissoluble! Mirabile dictu!

Why, it was simply to *restrain the excesses* of the Jews in discarding their wives for the most trivial causes, that our Saviour uttered the words of the text (Matthew xix) when the Pharisees asked "Is it lawful for a man to put away his wife for every cause? In going as it were to the *other extreme* in the endeavor to attain His object, Jesus was in accordance with the usage of Scripture, as is seen on many of its pages.

For instance: Our Lord said to the Pharisees "Swear not at all." And why? With a view to *check the excesses* of the Jews who were wont to swear on almost every occasion, and for the most paltry thing, the Saviour enjoined "swear not at all." Hence commentators say He only forbade oaths in common conversation, not before civil tribunals.

Again it is written (Mark x. 25) the Master declared, "it is easier for a camel to go through a needle's eye, than for a rich man to enter into the kingdom of heaven." Is it then impossible for one of great possessions to enter heaven's gate?

Nonsense! The railing against the rich is *ad captandum vulgus*. It is only meant in Mark x. 25, to teach the folly of *trusting in riches*, as Matthew v. 39—"Resist not him that is evil: but whosoever smiteth thee on thy right cheek, turn to him the other also"—plainly teaches patience and forbearance under provocation.

And so St. Matthew v. 40, 41: "If any man would go to law with thee, and take away thy coat, let him have thy cloak also. And whosoever shall compel thee to go one mile, go with him twain"—solely imply that we are not to be contentious but are to do everything in our power to soften and win our adversaries. Then, the declaration (Matthew xxvi. 52) "All they that take the sword shall perish with the sword" is to be taken in a certain limited sense.

Our Lord said "Give to him that asketh thee, and from him that would borrow of thee turn not thou away," Matt. v. 42—"of him that taketh away thy goods, ask thou not again," Luke vi. 30—"Sell that ye have and give alms," xii. 32. In His desire to uproot selfishness the Saviour goes to the *opposite extreme* and teaches entire forgetfulness of self.

He enjoined (Matthew vi. 25, 31, 34,) "Take no thought, saying, what ye shall eat, or what ye shall drink; or wherewith shall ye be clothed?* * * Take no thought for the morrow." And yet St. Paul says (I Timothy v. 8) "But if any provideth not for his own, and specially his own household, he hath denied the faith, and is worse than an unbeliever." To what then was Jesus referring? To an *undue* and unlawful anxiety, on the part of those who were unduly exercised as to their future, and hence to teach them faith in the Heavenly Father, who "so clothed the grass of the field," He counseled "Take no thought for the morrow." In this way he went to the *other extreme*, that He might uproot the weakness of his hearers. (See Luke xii. 22-28.)

In St. Luke xiv. 26, we find "If any man cometh unto me, and hateth not his own father, and mother, and wife, and children, and brethren, and sisters, yea, and his own life also, he cannot be my disciple." Was it intended we should *hate* our kindred? Listen to Ephesians vi. 2—"Honor thy father and mother that it may be well with thee"—read Eph. v. 25, 29: Husbands love your wives * * * for no man ever hateth his own flesh—see I John iii. 15: "Whosoever hateth his brother is a murderer." It is now seen that, the Saviour intending to teach

us the necessity of giving up *everything* for Him (should there be occasion,) and knowing our love of kindred and of life, went to the *other extreme*, as was his wont, and said unless we *hate* these cherished objects, we cannot be His disciples. (See Matthew v. 29, 30.)

Without citing further from the sayings of Jesus, I quote other portions of Holy Writ—and first, the decalogue thunders "Thou shalt do no manner of work on the Sabbath day." Is this command to be taken in its rigidity? "The Sabbath was made for man." Think of the custom of Jesus on that day.

(2) Are the sick, the feeble, the insane, the helpless, the aged to be starved because the apostle, to teach the folly and sin of idleness, goes to the *opposite extreme* and declares "He that works not, let him not eat?"

(3) It is written (I Cor. vi. 7) "It is altogether a defect in you, that ye have lawsuits one with another. Why not rather take wrong? Why not rather be defrauded?" These words, which were intended only to discountenance suits at law, if taken literally would encourage every sort and degree of robbery.

It were unnecessary to cite other instances of the *Scripture usage in going to the opposite extreme*,

when attempting to curb and rein in excesses, for we already see that the Bible in very many places does not set forth the whole truth but a *part* of the doctrine it would ennunciate—notably in Romans iii. 20 and iv. 2: * * * "by the works of the law shall no flesh be justified in his sight. For if Abraham was justified by works, he hath whereof to glory; but not toward God."—and James ii. 21, 24: "was not Abraham our father justified by works * * *? Ye see that by works a man is justified, and not only by faith."

And therefore, I conclude and maintain that our Saviour, having in mind the great excesses of the Jews with respect to the putting away their wives, went to the other extreme (Matt. v. and xix) in an endeavor to check and bridle these excesses in divorce; and so his words, on the occasion referred to, are to be taken in a *qualified* sense, as is the language of Scripture generally, under similar circumstances. Am I not correct in this matter?

It will doubtless be said, however, that our Lord, in St. Matthew xix, made an exception to the rule, and so divorces are not lawful, save for the cause of fornication; true, He made an exception, but He did not set forth *every* exception under the rule or law of divorce, we know, for St. Paul (I Cor. vii) makes an additional exception.

And since that apostle in his discourse alluded to fails to refer to the exception already made by his master, we are warranted in believing that neither Jesus nor His inspired teacher intended or pretended to enumerate *all* the lawful causes for divorce under the Gospel dispensation.

Again, our Lord speaks only of the right of the *man* to put away his spouse. He recognizes not the like right in the wife: Mark x. 12—"If a woman shall put away her husband and be married to another, she committeth adultery"—practically denies her right altogether.

This was according to the Mosaic law; and Josephus (Antiq. xv. 7, 10,) when he speaks of Salome's sending a bill of divorce to Costabarus, adds that this was not in accordance with Jewish law, so that a woman separated by her own act from her husband could not marry another, but only if she were put away by her first husband.

If, therefore, the whole law of marriage, as [illegible] set forth in Matt. v. and x[illegible] get her modern [illegible] infidelity? She [illegible] language. It is [illegible] stretched by [illegible] than He [illegible]

may take in *other causes* for divorce than the one asserted.

Before concluding this article, I would say, be it distinctly borne in mind, all the time, that while St. Matthew (ch. v. and xix) has "except for fornication," the other Evangelists (see Mark x. 11, 12; Luke xvi. 18) have no such saving clause; and that, it has been thought by some of the learned the *exception* is an interpolation. If this opinion be correct, then what our Lord uttered respecting divorce, was without any clause of exception; and so His words on that subject are unquestionably to be received with the *limitations* and *qualifications*, that I have shown many other sayings of His are hedged with: In other words, if He said only what St. Mark and St. Luke have recorded: "Whosoever putteth away his wife, and marrieth another, committeth adultery: and whosoever marrieth her that is put away from her husband committeth adultery"—then this text is to be accepted with the same common sense interpretation (limitations and qualifications) that we put upon the words "swear not at all"—immediately following, or on the command—"thou shalt do no manner of work on the Sabbath day." *Via trita, via tuta.*

CHAPTER VI.

Marriage a Covenant---A Civil Contract.

The only question which any wise man can ask himself and which any honest man will ask himself, is whether a doctrine is true or false. Consequences will take care of themselves.—*Huxley.*

What is marriage? "She is thy companion, and the wife of thy covenant," writes Malachi;[A] and Proverbs says "the covenant of her God."[B] Every agreement in Scripture between man and man, wherein God is called to witness, may be designated the Covenant of God, because He is therein attested. In Ezekiel[C] the compact which Hezekiah made with the infidel king of Babèl is termed "the oath and the covenant of God;" and the league of friendship between David and Jonathan is called the covenant of the Lord.[D]

Marriage then being a covenant, in *what* does its very being consist? Unquestionably in *love* and

(A) ii. 14. (B) ii. 17. (C) xvii. 19. (D) I Sam. xx.

peace. Where these exist not does the covenant remain? Can a thing subsist, when the essence thereof is dissolved?

And this position is evident to all, if we remember that, in marriage we are wedded to soul—the mind rather than body: hence love and peace in the family are regarded, more than a *compulsive* performance of the covenant, making us the bondmen of a luckless and helpless matrimony—

> Man and wife,
> Coupled together for the sake of strife.

In this opinion I am fortified by the inspired Paul, who, speaking of marriage and divorce says, that "God hath called us in peace, and we are not under bondage."[E] And what say the rabbis? They tell us that "divorce was permitted by Moses to preserve peace in marriage, and quiet in the family."[F]

Perchance you say that marriage is inseperable by nature. Then the Mosaic law, which allowed divorces, was against nature. Who believes such an absurdity? Do you tell me marriage is inseparable by the first institution? Then no second institution of the same law could dissolve it. Did the law of Moses, in divorcing for many causes,

(E) I Cor vii. 15. (F) See Bucer on I Cor. vii. 15.

contradict or violate the first institution of matrimony? What believer in the inspiration of the divine lawgiver can entertain so impious a thought? Beware!

Why, marriage being an ordained relation, an ordinance to the good of man and woman, where its end is not attained its intent is of course frustrated, and no ordinance can hold to the making miserable the respective parties who have entered into covenant.

I reiterate, marriage is not a natural, but a civil and ordained relation. And is it not virtually so conceded to be by those who grant any one cause may dissolve it? Why, they who affirm the innocent party, in case of divorce for adultery, may lawfully marry again, in effect say the relation of matrimony is extinguished by such divorce, so that the parties are no more man and wife, otherwise the innocent party could not marry a second time without the guilt of adultery. "Once a man, a jewel."

Now, if matrimony were a natural relation, no law or crime could make it more or less binding than it is by nature. For [illegible]

[illegible]

law or crime make a father no father, or a son no son? Then, if marriage *is not* a natural, but a civil and ordained relation, is it not dissoluble, as are other civil and ordained relations?

If the State prescribes the terms and conditions under which the relation is commenced, may not the State also decree the cause and method of its termination? Cannot that which creates also destroy?

Now-a-day divorce is but a legal separation of those who have been legally united. The State separates those whom it, and *it alone*, hath united. And the State has a right to make laws about marriage, which must concern the temporal welfare of the community, for it lies at the root of all society.

Paley, with Kant, tells us that "marriage is a civil contract and nothing else," while Blackstone says "our law considers marriage in no other light than as a civil contract;"[2] and Bishop affirms that "the condition of marriage is entered into through, and only through, the door of contract."[H]

(2) The common law of England (and the like law exists in America) considers marriage in no other light than as a civil contract. Joseph Story "On the Conflict of Laws," ch. v, p. 108, p. 194.

(H) Bishop on the "Law of Marriage and Divorce," vol. I, p. 122. Compare also Pomeroy, "Introduction to Municipal Law," Art. 741.

In truth, the Scotch law, is the American law upon this point. In this relation Bishop[1] says: "The leading principle is that consent makes marriage. No form or ceremony, civil or religious, no notice before nor publication after, no consummation or cohabitation, no writing or witnesses even, are essential to the constitution of this, the most important contract which two parties can enter into. * * * Matrimonial consent may be verbally and effectually interchanged, when no third party is present, and if it can be proven even at the distance of years, that such consent has been seriously and deliberately given, the parties will be held to have been married from that time forward." In holding that consent alone makes marriage we follow the canon law of the Middle Ages.

Among Mahometans, who have much in common with the Old Testament, the nuptial ceremony is not celebrated in the presence of the priests, nor is it considered an act of religion. The Cadi or civil judge, gives it a sanction—as to an act purely relating to society, which is not valid without his presence.

A large majority of the Hebrew people celebrated this Rite with civil and social formalities

(1) Law of Marriage and Divorce.

only, without priest and ecclesiastical ceremonies. At the time of the earliest successors of the apostles, marriage by the laws of the Roman Empire was a civil contract; and substantially (with the exception of slave marriages) the Church did little else than follow the municipal law on the subject of consent, eventually adopting the Roman civil law as the basis of her own in reference to the validity of the contract of marriage.

Indeed, that marriage generally was a civil contract, subject to the laws of the State, seems to have been the received doctrine of the early Church. When St. Paul wrote that "marriage is honorable in all" (Heb. xiii. 4)—the inference is that this honor rested as well on the ordinary civil contracts of the Gentiles as on any form in use among the Jews. The Apostolical Constitutions recognize the civil contract marriage, also Tertullian.

The validity of heathen marriage is implied in the judgments and decisions of various popes and councils as to pre-baptismal marriages, which were held binding, and on the express ground that the issue of such marriages were lawful, (Matt. xiv. 4.)

In truth, for many centuries both betrothal and marriage were in the eyes of the Church primarily civil contracts: See the old Canon law and the Mediaeval civil law; and this is in accordance with the laws of all nations.[J]

Before the time of Pope Innocent the Third, (A. D. 1198), there was no solemnization of this Rite in the Church, since the man went to the house where the woman resided, and led her to his own home, without using other ceremony. After the General Council of Florence (A. D. 1439) and the issue of the Synodical epistle of Pope Eugenius in 1442 marriage is a sacrament.

However, it was not 'till the Council of Trent—Dec. 13, 1545—Dec. 4, 1563—that the intervention of a priest, or other ecclesiastical functionary, was deemed in Europe indispensable to this ceremony, which was interdicted by this Council, otherwise than in the presence of a priest, and at least two witnesses. It was only a civil engagement till then.

In the Mediaeval Church the including of marriage among the Sacraments, and the power which

(J) Maryland is the only State of the Union that requires a religious service in order to constitute a valid marriage.

In the famous Van Houten-Morse breach-of-promise suit the full bench of the Supreme Court lays down the rule that marriage contracts are to be regarded in the same light as business contracts. Boston, Nov. 29, 1894.

the celebration of it with the civil rites gave to the priests, of determining who could or could not marry according to the Scripture and ecclesiastical canons was an immense power, which could be used to increase priestly influence, and to fill the coffers of the Church. The Council of Trent also declared "if any man shall say that the Church hath not had power to establish impediments which void a marriage, let him be anathema."[K]

Upon this authority of deciding questions touching the lawfulness of wedlock depended the ecclesiastical jurisdiction of Bishops, so far as it reached, over legitimacy, succession to inheritances, and the validity of testaments. A remedy in part was found in the lucrative practice of dispensations, which were freely granted.

The Reformation, in many respects, substituted the civil power of the State for the authority of the Church, and we have civil marriage in the principal countries of Europe, including England, where the nuptial Rites may be celebrated under the authority of the District Registrars.

(K) Ante-nuptial derangement of mind (defect of reason, at the time of marriage,) under the Roman law, and early law in the Western Church, followed generally by modern legislation, was fatal to the validity of the marriage contract.

CHAPTER VII.

The Dernier Resort.

Who swerves from innocence, who makes divorce
Of that serene companion—a good name
Recovers not his loss.—*Wordsworth.*

Marriage is a covenant—a civil contract:[A] nevertheless a wife who is faithless to her duties is unworthy of the blessing of heaven; a husband who *without an all justifying and all sufficient reason* abandons the woman whom he has taken "for better for worse" is fit only for the companionship of demons. *Quos Deus vult perdere, prius dementat.*

The right of divorce is to be exercised only as a *dernier resort*, when the exigency of wedlock will admit no other determination. *Ex necessitate rei.* Its exercise is an appaling thing to contemplate, under any circumstances. *Faciles descendus Averni.* The broken altar of a violated home! Oh, the *grief*, the *agony*, the *memories* that attend it!

(A) "Its formal appointment was the work of man." Dictionary of the Bible, Smith.

He counsels a divorce: a loss of her,
That, like a jewel, has hung twenty years
About his neck, yet never lost her lustre.

Although giving advice to one determined to seek a dissolution of marriage, let it cost what it may, is akin to an attempt to fill sieves with water, I am constrained to say consider all the consequences, in their wide reaching results. Have you children? The *dear* children!

Ah! what would the world be to us
If the children were no more?
We should dread the desert behind us
Worse than the darkness before.

Respice, aspice, prospice. Look into the past, look at the present, look into the future before inflicting what may be "an incurable wound." *In foro conscientiæ* are you prepared to give a valid reason for the step to forsake one to whom you vowed before heaven "to love and cherish, '*till death do us part?*"

I warn you this is no time "to weave spiders' webs"—sophistical excuses will not serve in this matter. Sophistry has no place in a contemplated "action for divorce," otherwise *conscience will soon need an anodyne*—and then!

O would the deed were good!
For now the devil that told me—I did well,
Says, that this deed is chronicled in hell.

No sin is hidden to the soul—it becomes a part of our very inner nature to awake and terrify. Hear!

Do evil deeds thus quickly come to end?
O, that the vain remorse which must chastise
Crimes done, had but as loud a voice to
warn
As its keen sting is mortal to avenge!
O, that the hour when present had cast off
The mantle of its mystery, and shown
The ghastly form with which it now returns,
When its scared game is roused, cheering the
hounds
Of conscience to their prey!

"Lead us not into temptation, but deliver us from evil," is Thy prayer given to man, O Lord!

Why do not words, and kiss and solemn
pledge,
And nature that is kind in woman's breast,
And reason that in man is wise and good,
And fear of Him who is a righteous Judge,
Why do not these prevail for human life,
To keep two hearts together that began
Their spring time with one love.

In the words of St. Paul "so ought husbands to love their own wives and their own bodies. He that loveth his own wife loveth himself. And let the wife see that she reverence her husband." The ideal of wedded life is the culmination of earthly happiness—the Oriental proverb:

> Husband and wife in perfect accord,
> Are the music of the harp and lute.

CHAPTER VIII.

Marriage is Dissoluble.

The proper observance of the Sabbath is a command of the decalogue, and yet when the good of man so requires, God permits and even approves many things which seem to be contrary to this command. Why is this? "The Sabbath was made for man, and not man for the Sabbath."

So marriage was made for man, not man for marriage: and the ordinance is not above the man for whom it was ordained; on the contrary, the ends why matrimony was instituted, are above the ordinance itself.

Hence the word of God, and the laws of all nations, provide for the dissolution of marriage. And while in Jehovah's ancient revelation we find the sins of his chosen people were frequently denounced, where is the intimation, from Moses to Malachi, of His anger for divorce?

In view of these things, to enjoin the indissolubility of a marriage the continuance of which is

unquestionably against the good of man or woman, soul and body, and have it shut upon us like the gate of death, is to make marriage a supreme command, above the decalogue. Monstrous!

Are we not authorized to use means for the removal of afflictions generally? And yet the *greatest of all afflictions*, an unfortunate matrimony, we must not try to remedy, but *hug the hideous thing to our bosom* till our very heart be broken! "A sore evil is this under the sun." *Aegri somnia vana.*

> For what is wedlock forced but a hell,
> An age of discord and continual strife?

How different is all this from these words of the inspired Proverbs: A woman that doeth shamefully is as rottenness in her husband's bones, xii. 14.—The contentions of a wife are a continual dropping, xix. 13.—It is better to dwell in the corner of the housetop, than with a contentious woman in a wide house, xxi. 9.—It is better to dwell in a desert land, than with a contentious and fretful woman, xxi. 19.—A continual dropping in a very rainy day and a contentious woman are alike: He that would restrain her restraineth the wind, xxvii. 15, 16.—For three things the earth doth tremble, and for four, which it cannot bear * * *

For an odious woman when she is married, * * * xxx. 21, 23. What now of the husband (*ame de bone*) who is equally execrable? *Non quis, sed quid.* The moral law is no respecter of sexes.

It is now shown from the nature of the thing that marriage is *dissoluble*, and that it were better to dissolve the tie than chain two persons together for life, the soul mortgaged to ruin, and so have them in perpetual strife and hatred, or in constant dissimulation and make believe. A household captivity without refuge or redemption. *Lis litem generat. Ruse contre ruse.*[A]

The indissolubility of marriage! How many hearts it has broken! The indissolubility of marriage! What unnumbered woes it has brought upon mankind! The indissolubility of marriage! What sins it has drowned souls in: Strife, hatred, hypocrisy, adultery, blasphemy, suicide, murder! The indissolubility of marriage!

I am bound
Upon a wheel of fire; that mine own tears
Do scald like molten lead.

Humanity cries in very despair while God frowns on this invention of Satan. O Augustine, the first to proclaim this monstrosity!

(A) That people generally divorce in order to remarry, statistics disprove.' The Problem of Divorce, Wilcox.

And this is the St. Augustine who lived twelve years with a concubine or "kept mistress," and, repudiating her, takes another! This *is* the very St. Augustine who never lived a single hour in lawful wedlock! Fit advocate of the indissolubility of marriage!

Why, some marriages are absolutely void from the beginning; others are voidable for some cause existing at their inception; and yet others, in time, furnish a justifying reason for their dissolution, and you would have the unhappy ones to live as they were deadly enemies in a cage together. Monstrous!

The power to dissolve the bonds of matrimony is a sovereign attribute which belongs to society, and it is inherent in the State; and so divorce has existed under some form, and with varying regulations, by the authority of the government of almost every nation of the human race, ancient and modern.

Yes, "It has been in all well regulated governments among the first attentions of the civil magistrate to regulate marriages by defining the characters and relations of parties who may marry; by describing the solemnities by which the contract shall be executed; by annexing civil rights to the

parties and their issue; and by declaring the causes and the judicature for rescinding the contract, when the conduct of either party and the interest of the State authorize a dissolution."[1]

And Perkins describes "marriage as a union of one man and one woman so long as they both shall live, to the exclusion of all others, by an obligation which, during that time the parties cannot of their own volition and act, dissolve, but which can be dissolved only by authority of the State."

In harmony with all this are these words of Bishop: "And the idea that any government could, consistently with the general well-being, permit marriage to become merely a thing of bargain between men and women, and not regulate it by its own power, is too absurd to require refutation."[A]

Of course all persons should be compelled by laws and judicature of the State to not without *extreme necessity* dissolve marriage.

Be it here remembered, matrimony is more than an ordinary civil contract, it is a status, and, "in this view," declares Judge Story, "it has some peculiarities in its nature, character, operation,

(1) Parsons on Contracts, vol. I, p. 578, note.
(A) Marriage and Divorce, sixth edition, vol. I.

and extent of obligation, different from what belongs to ordinary contracts."[B]

If it were merely an ordinary civil contract it would follow that it might be dissolved by the consent of the parties agreeably to the law maxim: "every obligation may be dissolved by the same power by which it was created." But marriage always continues until it has been dissolved by a legislative act or a judicial decision. This is the rule among all Christian nations.

Mark! it is *dissoluble*. To evade divorce you would make the marriage contract indissoluble. Ah! in striving to avoid Charybdis you fall upon Scylla.

(B) Story, Conflict of the Laws, § 108 n.

CHAPTER IX.

THE

First Institution of Marriage.

I now come to the nature of wedlock as deduced from the first institution of marriage, set forth in Gen. ii. 18: "And the Lord God said, it is not good that the man should be alone; I will make him a help meet for him." "And the man said, this is now bone of my bones, and flesh of my flesh: therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh."

If it be asked, what is the import of these words "it is not good that the man should be alone," the reply is, the first thing which God named not good is loneliness, and here "alone" is meant without woman. In the solitude of Adam it is decreed by the Almighty Father that one should be created who shall remove loneliness and give to man society.

In the words of the commentator Scott (Gen. ii. 18) "It was not conducive to the happiness of man, to remain without the solace of society, and the endearments of tender friendship; nor consistent with the ends of his creation to be without marriage:" and in the language of Henry, "It is not for his comfort; for man is a sociable creature, it is a pleasure to him * * * to love and to be loved:" and as the Comprehensive Commentary says (on the same text) "God graciously pitied his solitude" —"God graciously resolved to provide society for him."

What do we understand by society here? why, sympathy and friendliness of two natures whereby they shall live in accord and affection. I ask, suppose these things to be absent, and instead thereof discord, and strife, and hatred? In this case, is not the very nature of marriage subverted, and its intention frustrated? And when the nature of a covenant is subverted, and its end frustrated, by one or both of the parties thereto, doesn't the contract fall of itself?

Then, with respect to these words "I will make him a help meet for him," Henry says: "A suitable match for Adam:" and Patrick, Lowth and Whitby write, "In whose company he shall take

delight; so the Hebrew phrase, *as before him*, imports; being as much as, answerable to him, every way fitted for him; not only in likeness of body, but of mind, disposition and affection: which laid the foundation of perpetual familiarity and friendship." Now suppose she is naturally and ever no "meet help," in that case can she be a wife in the sense of the original institution?

And the man said, "this is now bone of my bones, and flesh of my flesh." In relation to this declaration Adam Clark says: "It is likely that a part of both bone and flesh was taken from the man—hence he said bone of my bone and flesh of my flesh." If this is so, was there not, then, a nearer alliance between Adam and Eve, than could be ever after between man and wife? No other woman was made out of her husband's rib.

Be that as it may, I cite here certain texts to shew that these words of Adam respecting Eve are not an unusual expression in Holy writ, and that they do not import as much as the advocates for the indissolubleness of Marriage would have us believe. And (1.) Genesis xxix. 14: Laban said to Jacob, surely "thou art my bone and my flesh." (2.) Judges ix. 2: Abimilech the son of Jerubbaal said to the men of Shechem, "remember

also that I am your bone and your flesh." (3.) II Samuel v. 1: "Then came all the tribes of Israel to David unto Hebron, and spoke, saying, Behold we are thy bone and thy flesh." (4.) II Samuel xix. 12, 13: King David said to the elders of Judah, "ye are my brethren, ye are my bones and my flesh:" and to Amasa, "Art thou not of my bone, and of my flesh?" (5) I Chron. xi. 1: "Then all Israel gathered themselves to David unto Hebron, saying, behold we are thy bone and thy flesh." (6.) Ephesians v. 30: "For we are members of Christ's body, of his flesh, and of his bones."

And Adam said: "Therefore shall a man leave his father and his mother, and shall cleave unto his wife." Be it understood that, it is not said absolutely and unqualifiedly, a man shall cleave to his wife, and I naturally ask what is the sense of "*therefore*" in this text?

Does it not concern the very *essence* of the marriage institution? She being to him society and a meet help—*therefore* he shall cling to her. Must he cleave unto her if she be not a wife in the sense of the original institution? Must he cleave *Absque ulla conditione?*

"And they shall be one flesh"—that is, in the words of Patrick, Lowth and Whitby, "most intimately conjoined in entire and inseparable love." "Fitness of mind and disposition" makes them *one flesh*, says another.

And in the 6th chapter of St. John, where our Saviour speaks of the disciples eating His flesh and drinking His blood, there is primary reference to fitness of mind and disposition on their part, as also where the apostle Paul in the Ephesians (ch. v.) writes—"We are members of Christ's body, of His flesh, and of His bones," there is particular reference to fitness of mind and disposition on the part of those who are one body in Christ.

"The flesh profiteth nothing." It is clear, then, that this union of the flesh proceeds from the union of fitness of mind and disposition. Furthermore: "They shall be one flesh" denotes to make legitimate and justify the rites of the marriage-bed, which else, says one, might seem to have something of pollution in them.

I here call attention to the learned Commentator Henry, who says "the first marriage was made in perfect innocency, and so was never any marriage since." The text under consideration is

then the description of a fit and perfect marriage, which should never be divorced: but when or where has God forbidden the dissolution of an unfit and imperfect wedlock? On the contrary, has He not commanded such dissolution both in the law of Moses and elsewhere?

And in all those decrees of the Old Testament concerning marriage, has Jehovah once mentioned the original institution to dissuade His people from divorcing? When? Where? He forbade all sins, and yet was the matter of divorce ever censured? When? Where? Did not the wisest and the holiest of His people, in the best and holiest of times, avail themselves of the law of divorce? Unquestionably. *Cadit quæstio.*

Marriage in its original institution was not capable of being dissolved even by death, for sin and death were not then in existence. To take a law out of Paradise given in a time of original perfection, when man and woman were both perfect each to other, and apply it under existing circumstances to maintain the indissolubility of wedlock, when God himself, after the fall, under changed conditions, permitted its dissolution, as both the law of Moses and saying of Christ testify! And it may be added, undoubtedly as to

Judicial law, divorce was more permissive from the beginning before Moses than under Moses.

While discussing the original institution of marriage, I recall the beautiful words of Henry: "Woman was not made out of the man's head to top him, not out of his feet to be trampled upon by him, but out of his side, to be equal with him, under his arm to be protected, and near his heart to be loved." To be loved, be lovable, says Ovid.

CHAPTER X.

Marriage Rightly Understood.

Attention is sometimes called to these words of the apostle (Ephesians v. 24, 25, 28, 33): "As the church is subject to Christ, so let the wives also be to their husbands in every thing. Husbands love your wives, even as Christ also loved the church, and gave himself up for it * * * So ought husbands to love their own wives as their own bodies. He that loveth his own wife loveth himself. Let every one of you in particular so love his own wife even as himself; and the wife see that she reverence her husband."

This text sets forth the nature of wedlock in the union of two loving hearts. "The husband shall love the wife as his own body" or "even as himself." And so are we not commanded to love our neighbor *as* ourself? Does the language in either instance import any mysterious union?

"Even as Christ loved the Church." Can mortal love vie with the unselfishness and depth of the love that Christ bears His Church? "As the Church is subject unto Christ, so let the wives be unto their own husbands in everything." Can mortal be subject to mortal as the Church composed of mortals is to Christ, God?

Is it not readily perceived that this language of the Apostle is simply illustrative and figurative? just as in the declaration of v. 30, which declares "we are members of Christ's body, of his flesh, and of his bones."

These remarks on this text are made in view of a true and proper wedlock, but suppose it to be unreal and improper? Would not Christ divorce His Church were it unfaithful to its Head? not performing the conditions of the covenant existing between them. If, then, either party to the marriage contract will not or cannot perform its conditions, can it be said that the covenant of matrimony holds good between such? "A bargain broken on one side, is broken on all sides," said Webster on one occasion.

The Apostle referred to wedlock when he said (Ephesians v. 32): "This is a great mystery: but I speak concerning Christ and the church"—and

thence some conclude marriage to be inseparable. Is matrimony a mystery like unto the union of Christ and His Church? Is every ungodly marriage such a mystery? *Cito maturum, cito putridum.*

In view of the foregoing, I conclude that marriage is dissoluble, and that divorce under some circumstances is lawful and expedient, nay absolutely necessary to the good of man and woman. *Alia tentanda via est.*

Listen, ye married ones, to Aikman: "Love can be kept forever beautiful and blessed as at the first, by giving it constant utterance in word and act. The more it is allowed to flow out in delicate attentions and noble service, the stronger and more satisfying and more blessed it will be. The house becomes home only when love drops its heavenly manna in it fresh every day, and the true marriage vow is made not for once at the altar, but by loving words and helpful service and delicate attentions to the end." These graceful hints are

As frank as rain
On cherry blossoms.

Happy and thrice happy are they who enjoy an uninterrupted union, and whose love, unbroken by any complaints, shall not dissolve until the last day.—*Horace.*

Though fools spurn Hymen's gentle powers,
We, who improve his golden hours,
  By sweet experience know,
That marriage, rightly understood,
Gives to the tender and the good
  A paradise below.

CHAPTER XI.

The Bible on Divorce.

I come to passages of Scripture which clearly favor divorce. And (1) Gen. xvi. 3, 4, Abram took Hagar to be his wife, and in xxi. 14, it is written he "sent her away," under the express directions of Almighty God.

(2.) Exodus xxi. 2, 3, 4, 7, &c. The master might take away from a Hebrew servant the wife which he gave him.

(3.) Deuteronomy xxi. 11–14. A captive woman lawfully married, but afterwards "if thou (her husband) have no delight in her, then thou shalt let her go whither she will."

(4.) Deuteronomy xxii. 19, 29. In certain cases the husband "may not put away the wife all his days." This implies that for some causes the wife might be divorced.

(5.) Deuteronomy xiii. 6, 9. An apostate Idolater, whether husband or wife seducing, was to

die by the decree of God. That marriage therefore Jehovah himself disjoins.

(6.) Deuteronomy xxiv. 12. "When a man taketh a wife, and marrieth her, then it shall be if she find no favor in his eyes, because he has found some uncleanness in her, that he shall write her a bill of divorcement, and give it in her hand, and send her out of his house: And when she is departed out of his house, she may go and be another man's wife."

Respecting this text it may be asked, what is the meaning of "because he hath found some *uncleanness* in her." This is an important question since all antiquity, both Jewish and Christian, affirm these words of Deuteronomy to be a *law*, in which God commands divorce by Moses. All authorities say that *uncleanness* is not here understood of adultery. Many expositors translated the Hebrew text not uncleanness but "the nakedness of anything," which term is usually referred in Scripture to the mind as well as to the body.

The opinion of certain learned commentators, on this passage is now given. Adam Clarke says, "uncleanness (matter of nakedness)—any cause of dislike." Olshausen writes, "'some uncleanness'—nakedness of any kind. The school of Shammai,

at the time of Jesus, understood Nakedness of any kind literally of unbecoming attire, that of Hillel figuratively, of every fancied fault, even of bare dislike." Patrick, Lowth and Whitby set forth: "'Some uncleanness.' Both the school of Shammai and the school of Hillel agree that matter of uncleanness hath a far lower signification than adultery." Scott declares, "The uncleanness was not adultery, or any suspicion of it; for both these cases were otherwise provided against: but some ceremonial uncleanness, or disease, or some natural or moral objection which formed a real grievance." And Henry affirms, "'Uncleanness.' Something that made her disagreeable and unpleasant to him, though it might not make her so to another." The revised version of O. T. says: "because he hath found some *unseemly thing* in her,"

This passage (Deut. xxiv. 1, 2) was the subject of controversy between the school of Shammai and school of Hillel. Winer says that the Gemara makes the view of the school of Shammai thus—even public violations of decorum might furnish ground for divorce: and Josephus (Antiq. iv. 8, 23) interprets the law according to the views of Hillel: "He who wishes to be separated from his wife for any reason whatever—and many such are occur-

ing among men—must affirm in writing his intention of no longer cohabiting with her."

Be it understood and remembered, that, Moses found the *custom of divorce*, which he did not forbid—*he let the practice continue.* The sole prohibition of his law is: If a man put away his wife, and she became the wife of another man, by whom also she was put away, or from whom she was severed by his death, the first husband might not remarry her.

(7.) Malachi ii. 15, 16. * * * and let none deal treacherously against the wife of his youth. For I hate putting away, saith the Lord, the God of Israel, and him that covereth his garment with violence.

This is a difficult passage. The Septuagint reads "When one out of hatred puts away, saith Jehovah God of Israel, he covereth his garment with violence." Ewald's version (in his Prophets) follows the Septuagint in making the sentence conditional: "when one out of hatred puts away, saith Jehovah God of Israel, he covereth his garment with violence," or, as Hitzig has it—"he covereth his wife with violence." Calvin and other translators say "he who hates let him divorce." The marginal rendering of our version—"The Lord God of Israel

saith, if he hate her, put her away,"—was given by Jerome and adopted in Luther's Bible.

God here commands divorce by Malachi, says Martin Bucer, as He had before by Moses. This prophet lived in the times of Nehemiah and Ezra (indeed, by some is thought to be Ezra himself), when the people were forced by them to put their strange wives away.

In Ecclesiasticus (xxv. 26) is found the exhortation "If she go not as thou wouldst have her, cut her off from thy flesh, and give her a bill of divorce, and let her go." The author of this book of the apocrypha wrote it is supposed not long after the times of Malachi, and professes to explain the law and the prophets.

Then, the Jews were commanded to divorce an unbelieving Gentile for two causes: because all other nations were to them unclean, and to avoid seducement from the true God (Exod. xxxiv; Deut. vii; Ezra; Neh.) And Ezra (ix and x) and Nehemiah (ix), by divine warrant, compelled the Jews to put away their "strange wives." Let us look into this particular matter.

Ezra, B. C. 457, and Nehemiah, B. C. 437, separated all the strange wives, together with the children born of them, from their Jewish husbands.

Now, although this intimacy with "the people of the lands" was forbidden for certain reasons, namely, to avoid the risk of the chosen race being seduced into idolatry, we are not to suppose that marriage with a Canaanite, or a Moabite, or an Egyptian was a thing void and unlawful in its own nature. It was prohibited at a particular period, and as a general, *not* a universal rule. It was not without exceptions: for instance, Joseph married the daughter of Potipherah in Egypt; and doubtless marriages between the sons of Jacob and the Egyptians were numerous during the sojourn of the Israelites in Goshen. Solomon also married the daughter of Pharoah. Boaz, of the tribe of Judah, married Ruth, a Moabite, and became thereby a progenitor of David, and an ancestor of Jesus.

Hence it is seen that these marriages of the Jews in the time of Ezra and Nehemiah were not in their own nature null and void, but were simply marriages contracted in violation of a special commandment. And therefore, the separation occasioned was not a mere declaration of nullity, but was really a *divorce*, the dissolution of a marriage actually existing, and on *the ground of expediency*: there was *nothing* to vitiate it in principle: it was

simply regarded to be more conducive to the well-being of one, or both of the parties, that they should be separated, and that the marriage should in fact be dissolved.

And be it not forgotten, God commanded Abraham to send away his irreligious wife: Moses sent Zipporah back to her father: and David disposed of Michal in such a sort as little differed from a dismission. Abraham the father of the faithful, Moses the divine law-giver, as well as the "meekest of men," and David the "man after God's own heart," practiced divorce! Thus said the inspired record. *Amicus Plato, amicus Socrates, sed magis amica veritas.*

CHAPTER XII.

St. Paul i: I Cor. vii.

I observe (I Cor. vii.) two cases are noticed, one where both the parties were Christian believers, another where one of the parties was an unbeliever, for which Christ had not provided. The Apostle says (v. 12) "If any brother hath an unbelieving wife, and she is content to dwell with him, let him not leave her." He here informs the Corinthians, that the body of an unbeliever was not defiling, as had been the case in the former dispensation, and let the husband not leave the wife from the mere surmise of Judaical uncleanness. And the Apostle continues (v. 16) "For how knowest thou, O wife, whether thou shalt save thy husband? or how knowest thou, O husband, whether thou shalt save thy wife?" That is, till they try all due means: time, circumstances, effort, patience.

I Cor. vii. 10. A wife already in a state of separation from her husband is to remain unmarried, or be reconciled to him. "We are led to believe,

from the terms used, that the Greek denotes simple separation unattended with divorce, as if it were a transaction not formally taking place before a civil court."

We now read (v. 15) "Yet if the unbelieving departeth, let him depart: the brother or the sister is not under bondage in such cases." That is, the party without cause deserted is not bound to abstain from marriage. Says Scott: "The fathers in general interpret this as allowing the deserted party to marry again." De Wette declares the notion of remarriage may be supplied by correct inference; he says, in his Commentary, that both Christ and Paul permit remarriage, when the parties are separated in fact. Meyer alleges, that Christ did not have mixed marriages in his mind, but only marriages within his church. Grotius, Martin Bucer, and others assert "is not under bondage" denies the obligation to remain unmarried; indeed, the greater part of the commentators agree in this, and infer from the passage the lawfulness of taking another husband or wife. For instance, Lange, Commentary on I Cor. vii. 15, says "the words carry the implication,—'is not unconditionally bound to the marriage relationship like a slave'—'is free.'" Beza counts it "all one whether the

heretic desert, or would stay upon intolerable conditions."[1] In the early church marriage was permitted to one whose wife (infidel) adandoned him. See Conybeare and Howson on this verse, also Hilary, Photius, Chrysostom, Œcumenius, Ambrose, and Theophylact.

In the time of St. Paul both the Hebrew and the Roman law permitted unlimited divorce. These words from a Roman husband—"take your own property ; mind your own affairs," were sufficient to put an end to the marriage. A written notice of divorce in time came to be customary. By the Roman law marriage was held to be dissoluble at the pleasure of either party.

The Roman Catholic Church allows both divorce and remarriage to a Christian separated from a heathen by the agency of the latter (on the authority of I Cor. vii.), or without leading him into mortal sin. Bellarmine owns, that the bond of the marriage of infidels is dissolvable. And the prevailing view among the Protestants has drawn a justification of divorce in cases of malicious desertion, whether the guilty party be a heathen or not, from this commandment of St. Paul, which gives a representative class, as is thought.

(1) Theodore of Canterbury: "If the wife is an unbeliever and a heathen and cannot be converted, let her be dismissed." (Penitential, lib. ii. c. xii. § 18.)

I ask, may this view not be easily defended? The Apostle adds (v. 15) that "God hath called us to peace" in marriage. May a christian not be brought into bondage, and his peace destroyed in wedlock, by unequally yoking with a diversity of nature as well as of religion? "A brother or sister is not under bondage in *such cases.*"[A] The Eastern proverb tells us "If you yoke a buffalo and an ox together, the one will push for the swamp and the other for the hill."

Thus it is seen that not only the law of Moses, and the command of Malachi, but the teachings of the inspired Paul testify clearly and decisively against the novel idea of the indissolubility of the marriage bond: the Old Testament and the New affirm the lawfulness of its dissolution. *Dieu defend le droit.*

(A) It is not divorce that first breaks the peace of a family; but it is peace already broken, which can only be restored to the blameless one by a divorce. Basque proverb:—He who marries a wolf often looks towards the forrest.

CHAPTER XIII.

The Moral Law Never Changes.

The act of divorce is moral, although the giving of a bill may be merely judicial, and as the moral law never changes, the right to divorce, which was clearly manifest under the Mosaic law, exists to day. "Think not that I came to destroy the law or the prophets: I came not to destroy, but to fulfil * * * one jot or one tittle shall in no wise pass away from the law, till all things be accomplished."

Read St. Luke xvi. 17, 18, where this clause—"it is easier for heaven and earth to pass away, than for one tittle of the law to fall"—against abrogating is inserted immediately before "every one that putteth away his wife, and marrieth another, committeth adultery: and he that marrieth one that is put away from a husband committeth adultery."

Be it always borne in mind our Lord Himself (Mark x. 3) allows divorce to be a command, and

He intended not to give new laws in civil affairs, nor to change the old. Now matrimony and divorce are civil things. Hence it is clear Christ did *not* abrogate the law of divorce, but *reproved the abuse thereof*. And when *He bade to forsake wife for religion*, what did He mean? *He meant divorce*, as Moses meant it, when divorcing for a similar reason. *Ab identitate rationis. Ab uno disce omnes.*

I, too, a disciple of the Master, would "reprove the abuse" of the law of divorce, and say to those in the bonds of matrimony (*Vinculum matrimonii*) whose surroundings are not what *they* would have them be, that you may be loved, be deserving of love. Do not yield to evils. "Resist the first beginnings." Patience is a tree whose root is bitter, but its fruit is very sweet, says the proverb. Silence is the remedy for anger; by silence there is no quarrel. Let there be no crimination and recrimination, for these are "the same wine (poison?) poured into different glasses."[A] Anger is a short madness. When the cause ceases, the effect ceases. An ill weed grows apace; cut it up by the roots. With fortitude and rectitude captivate.[B] Virtue is

(A) I have often regretted having spoken, never having kept silent.—*Syrus.*

(B) "Cease to lament for that thou cans't not help
And study help for that which thou lament'st."

a thousand shields. Poison is drunk from a golden vessel. Away with craft, for nothing is beautiful but truth. Constancy, courage, and faith now. It will be pleasant to remember these things hereafter. Have you trials? Though worn by attrition, the sandal wood loses not its savour. Hope is not yet broken! Experience bought with pain is instructive. We learn by what we suffer. "Love suffers long and is kind * * * doth not behave itself unseemly, seeketh not its own, is not provoked, taketh not account of evil; * * * beareth all things, hopeth all things, endureth all things."

Sometime, when all life's lessons have been
learned,
And sun and stars forevermore have set,
The things which our weak judgments here
have spurned,
The things o'er which we grieved with lashes
wet,
Will flash before us, out of life's dark night,
As stars shine most in deeper tints of blue;
And we shall see how all God's plans are
right,
And how what seems reproof was love most
true.

But not to-day. Then be content, poor heart!
God's plans like lillies pure and white unfold.
We must not tear the close-shut leaves apart,
Time will reveal the calyxes of gold.
And if, through patient toil, we reach the land
Where tired feet, with sandals loosed, may rest,
When we shall clearly know and understand,
I think that we will say, "God knew the best."

CHAPTER XIV.

Whom Hath God Joined?

"And there came unto Jesus, Pharisees, tempting him, and saying, Is it lawful for a man to put away his wife for every cause?" Matthew xix. 3. Now, when they would tempt him, He was wont to confuse them in their own craftiness, as, for instance, in the case of the woman taken in adultery, and in that of the tribute money.

On this occasion He called the attention of His questioners to the original institution of marriage, and then said, "What therefore God hath joined together, let not man put asunder." There is no prohibition to put asunder those whom God has *not* joined.

And whom has He joined? In the very first institution of marriage He said, "I will make him a help meet for him." What God intended and promised, that only can be His joining. So it is said, I Cor. vii. 15, that in matrimony "God hath

called us to peace." Now as He has called us to marriage, He has joined us. God never joined against the meaning of His own ordinance. "All wedlock is not God's joining," says Ambrose. He does not determine what particular man and woman shall be united.

Can any sane man think that *God* joins every couple that enters the married state? If two be instigated solely by passion to marry, does God join them? If two marry for wealth and position, does God join them? *Amor nummi. Auri sacra fames. Caveat emptor!*

If parties marry through base or improper motives of any sort, does God join them? Did they ever enter into that "estate of Holy Matrimony, which signifies mystical union that is betwixt Christ and His Holy Church?" Their marriages were not entered into "soberly and in the fear of God," but "otherwise than as God's word doth allow."[A]

Is every clandestine marriage effected by the Almighty? If so, then parents commit sin in opposing those marriages. The consent of parents being indispensable to the validity of a Hebrew or Roman marriage, clandestine marriages were not

(A) These parties remind of the Tamul saying: I rest my foot on a branch breaking, and my hand on one about to break.

generally possible. Constantius and Constans made these marriages a capital offence. See, too, the law of Valentian and Gratian. The second canonical letter from Basil to Amphilochius calls marriages entered into without a father's sanction by the name of fornication (can. xlii.) The fourth Council of Orleans A. D. 541 says that they should be regarded in the light of captivity or bondage rather than marriage (can. xxii.) The Council of Trent says the Holy Church of God has always, for the best of reasons, abhorred and prohibited marriages of that kind; and there are canons of the Anglican Reformation against clandestine marmiages.[B] "Those whom God joins not, let man separate: the judge, the court, the law, the State's collected will." *Comme il faut.*

The principals in many a "runaway match" ultimately realize the force of the proverb "a word once spoken an army of chariots cannot overtake it"—and recall that classic incident: when Simonides offered to teach Themistocles the art of memory, he answered, "Ah! rather teach me the art of

(B) Among the Nez Perces in Oregon, when the parents refuse their consent, a runaway match occurs, which, Schoolcraft tells us, "is not regarded as a legal marriage, and the woman thereafter is considered a prostitute, and is treated accordingly."

forgetting; for I often remember what I would not, and cannot forget what I would." And the clergyman who is ever ready to further clandestine marriages? *Reptile!*

"He must needs go that the Devil drives."

CHAPTER XV.

St. Matthew xix. 3, 7, 9: Fornication.

I now come to St. Matthew xix. 3 and 7: And there came unto Jesus Pharisees, saying, "Is it lawful for a man to put away his wife for every cause?" And if not, "why then did Moses command to give a bill of divorcement, and to put her away?" They here had reference to Deuteronomy xxiv. 1, 2, which was interpreted by the Jews as giving unlimited power to put away a newly married wife for everything and anything having respect to the fancy, tastes, prejudices and temper of the husband.

To this great and shameful latitude of interpretation of Deuteronomy xxiv. our Lord answered (v. 9) "whosoever shall put away his wife, except for fornication, and shall marry another, committeth adultery: and he that marrieth her when she is put away committeth adultery." The original word porneia (fornication) clearly distinguishes the crime from moicheia (adultery) which was

not the cause of divorce among the Jews, since the adulteress and her paramour were both put to death (Levit. xx.)

If the word fornication be understood in its strict and original sense, our Lord has no reference to *any cause of divorce* occurring *after* marriage, and so argue Patrick, Lowth and Whitby (vol. iv. 136.) Then adultery nor anything else in the nuptial state is a legitimate cause for sundering the bond of matrimony! *Aliquid inane.* Silly nonsense.

But you have Roman Catholic authority! "If any man shall say that the Church errs when she teaches as she has taught, that the bond of marriage cannot be dissolved on account of the adultery of either party, and that even an innocent party cannot contract another marriage while the other party lives, let him be anathema."[A]

Doubtless the word fornication here has a general signification and may include *causes* for divorce, having an existence *before* or *after* marriage. There is little doubt that *porneia* in Scripture usage may cover all unchastity, as authorities of the

(A) This decree of Trent seems to declare marriage is absolutely indissoluble, even by adultery; but it was intentionally so framed as to be ambiguous. It does not declare that the marriage of an innocent party to a just divorce has been made unlawful by divine authority, but only that it is unlawful by virtue of an ecclesiastical prohibition.

highest rank maintain; it is the only word used for impurity in the decree of the apostolic council, Acts xv. 20, and in the two places where that decree is subsequently referred to, Acts xv. 29; xxi. 25. In I Cor. v. 1, fornication is used with reference to incest with a father's wife.

Dean Alford says: "Porneias must be taken to mean sin, not only before marriage, but after it also, in a wider sense, as including moicheia likewise." Bishop Wordsworth also has no doubt that the word means adultery. The scholarly Professor Conington says it is a large word and may include adultery. Many other scholars of like opinion might be named here: See Kninoel's collection of examples. In harmony with all this are Clement of Alexandria, Tertullian, Cyprian, Basil, and the Eastern Church in general ever since.

Nay, more; the words of our Lord "whosoever shall put away his wife," &c., were spoken to the *individual*, and not addressed to the State. They, going to the "opposite extreme," were intended to *rein in the unbridled license* of the husband. He did not intend to lay down a complete code of divorce for all future generations; He was not speaking of any system of *Judicial* or *legal* divorces,

for they were not known till five hundred years afterwards.

He denied to *individuals* this right to break the bonds of wedlock, but did not prohibit the State from making laws respecting matrimony. Luther held that a private man, acting in his own case, was not to put away his wife, but the law making power, was invested with that right. An illustration of this point I cite from Scripture: "Resist not evil," &c. This has reference to the duty of forgiveness on the part of the *individual:* the same authority declares: "Whoso sheddeth man's blood, by man shall his blood be shed." This has reference to the duty of the *State* to punish for violation of law. Does the sovereign State not hold supreme control over the property, the liberty, and even the life of the citizen? Marriage is not a matter "purely spiritual—it is a civil thing."—*Cela va sans dire.*

CHAPTER XVI.

"Committeth Adultery."

The vital subject of "marriage and divorce" is continued, by resuming our exposition of Christ's words, as contained in the nineteenth chapter of St. Matthew's Gospel, the 9th verse of which says: "Whosoever shall put away his wife, except for fornication, and shall marry another, committeth adultery: and he that marrieth her when she is put away committeth adultery." The latter clause beginning with "and he that marrieth her," &c., is omitted by some ancient authors, and therefore of doubtful authority.

The verse taken in its entirity is not free from ambiguity, since according to its literal and grammatical sense the adulteress put away may without sin marry another, and without a wrong on the part of him that marries her; but the innocently divorced shall not again enter into wedlock without the guilt of adultery both to herself and her second husband! *Dignus vindice nodus.* And then, our

Lord said on one occasion "whoso looketh on a woman to lust after her hath committeth adultery already in his heart." Must the adultery be the act or the *approach* to that act?

As said before, of one thing we may be assured, that our Lord intended not to deliver here the whole doctrine of divorce in every particular, since St. Paul (I Cor. vii) authorizes to marry after desertion. Can the apostle contradict his master?

Origen says Christ did not speak here by way of precept, but as it were expounding. Tertullian against Marcion writes "Christ excused rather than destroyed the constitution of Moses"—"Christ teacheth not contrary to Moses, the justice of divorce hath Christ the asserter." Perkins on Matthew says "our Lord here confutes not Moses' law, but the false glosses that defraud the law."

We are told (v. 10) "the disciples say unto him, if the case of the man is so with his wife, it is not expedient to marry." The disciples had been brought up under the Pharisean doctrine and loved old customs, as was their manner, and it was not an unusual thing with them to misunderstand their master. He told them, "It is easier for a camel to go through a needle's eye, than for a rich man to enter the kingdom of God." "The disciples

were astonished at His words." He explained Himself to mean "them that trust in riches," "and they were astonished out of measure, saying among themselves, who then can be saved?"

And at the close of our Lord's discourse on faith at Capernaum, (St. John vi.) it is written, v. 60, "many therefore of his disciples, when they heard this, said, this is a hard saying, who can hear it?" And yet, they received no interpretation of His words. "From that time many of the disciples went back, and walked no more with Him." Why? They misunderstood Him. *Alienа optimum frui insania.*

In view of these several things, it may with confidence be maintained, that if his disciples' understanding of Matthew xix. 9, 10, was the same which is now commonly imagined, it *argues nothing.* But why did not Christ, seeing their error, remove the misapprehension? It was His usage or custom not to teach them all things at all times, but each thing in due place and season.

In any case, take what view one may of Matthew xix. 9, the text implies liberty of remarriage, and so demonstrates the falsehood of that doctrine

which many teach now-a-day: "The indissolubility of marriage."[A]

And, to use the language of a well-known author, "In the Church, both primitive and reformed, the words of Christ have been understood to grant divorce for other causes than adultery; and that the word fornication, in marriage, hath a larger sense than that commonly supposed."

(A) "If any man's wife has committed fornication, he may put her away and take another. * * * She, moreover, if she has shown penitence for her sins, after five years may take another husband." The Penitential of Theodore.

CHAPTER XVII.

St. Matt. xix. 7, 8. Hardness of Heart.

It were well now to look at St. Matthew xix. 7, 8: "They say unto him, why then did Moses command to give a bill of divorcement, and to put her away? He saith unto them, Moses for your hardness of heart suffered you to put away your wives." "Command" and "suffered" are interchangeably used in the same sense both by our Saviour and the Pharisees. Our Lord, who here says, "Moses suffered you," in 10th of St. Mark says "what did Moses *command* you—and Moses wrote you this *precept.*" And the Pharisees, who here say, "Why did Moses command?" In 10th of St. Mark say "Moses suffered." "To suffer" is but the legal phrase denoting what by law a man may do or not do. To marry or to divorce is only a permission by law, is but suffered.

It may be asked, had this law permitting divorce no reason for its enactment other than "the hardness of heart?" It does not necessarily

follow, although Christ expresses no other reason at this time. Do the Scriptures ever on any one occasion give all the reasons for what they grant or command? Why should our Lord at this interview, with enemies who would tempt him, vary from his usual course? St. Paul (I Cor. vii.) seems to permit even marriage for hardness of heart only, lest we should run into fornication. Was marriage allowed in the new dispensation only to avoid an evil, because no other end was there expressed?

The term "hardness of heart" is used in two or more senses in the New Testament. We read (St. Mark xvi. 14) "Afterward, He (Jesus) was manifested unto the eleven themselves as they sat at meat, and He upraided them with their unbelief and hardness of heart, because they believed not on them which had seen him after he was risen." Here the weakness or infirmity of the Apostles, not downright unbelief, is called hardness of heart.

Was Moses' divorce law given because of our weakness, or hardness of heart, in the sense in which we see that term was applied to the Apostles? Or was it enacted that the hardness of another's heart shall not inflict such things upon an inno-

cent person in wedlock, as shall make life intolerable?

I give the following for what it is worth, from Olshausen: "He who has not the Spirit, and does not live in him, is not the man for whom the commandments of Christ were given; he stands under the authority of Moses. The relaxation then made by Moses must be still in force in favor of such a man. Jesus meant His words to apply to the Spiritual Church and not indiscriminately to the visible Church." Vol. I. p. 105. "From the more exact limitations in the words of the Lord (Matt. v. and xix) it follows, that the second marriage of divorced persons is not to be considered as absolutely forbidden for the dead members of the visible Church." Ibid vol. IV. p. 278.

In a second sense, the term "hardness of heart" is applied to one of a determined resolution to do evil. Did God make a law through Moses to favor such? Did He decree an unlawful thing only to serve the lust and wantonness of depraved humanity? Did God establish by law a thing wholly unlawful? It would make Him the author of sin, and so enter into a kind of covenant with it—"do evil that good may come thereby." Can His law enact a permission of sin? Why to do so, would

be against the nature of law, the end of the law-giver, and the highest and best interest of all.

Let me dwell upon this matter, though risking repetition. If divorce, as it was under the Old Testament, was not allowable, how could it be allowed? If it were allowable, a tolerated custom has the force of a law, and is indeed no other but an unwritten law. Divorce could be no *dispensation*, if it were sinful. A thing unlawful cannot be allowed by a positive law. Engraft sin into the substance of the law! Sin can have no tenure by law, but it is an eternal outlaw. "Shall not the judge of the earth do right?" And Moses continually avows that every statute, or judgment, is even as the "Lord my God commanded me."

Can one in sober senses suppose that God in His law granted to His people a civil immunity and freedom, for almost two thousand years, to live and die in adultery, under a covenant of works, and then deny this immunity in a covenant of grace? You say that "Moses, as a divinely authorized legislator, did 'suffer'—permit divorce, and expediency was his evident motive?" The principle of expediency was therefore recognized in the Jewish Theocracy. May human governments now act upon expediency?

Had the Jew any more right to such a supposed indulgence than the Christian? Had he not the same precepts about marriage, and was he not as much bound to perform the moral law as the Christian? Did the law not require as perfect obedience as the Gospel? Unquestionably, the Saviour's words must be understood as against the *abuse* of the liberty which Moses gave. And when He said "but from the beginning it was not so," He simply meant to say that by the original institution, it was not intended that marriage should dissolve for any and every cause, as had been taught and practiced by the Pharisees, whom He then addressed.

CHAPTER XVIII.

St. Matt. xix. 9: Except for Fornication

I now call attention to a very important part of the argument respecting the much discussed question of divorce, and refer again without preliminary to the words of Christ, as recorded in St. Matthew xix. 9: "Whosoever shall put away his wife, except for fornication, and shall marry another, committeth adultery." It is said "Whosoever shall put away his wife." That is to say, shall so put away as the Pharisees were wont to do, for trivial causes. Whosoever shall put away a wife indeed, and not in name only, a help meet. A volonté. Grave delictum. Homo nullorum hominum.

He also says "Except for fornication, and shall marry another, committeth adultery." Be it understood that, "to play the whore," signifies in numberless instances the crime of idolatry—see Exodus xxxiv. 16, Leviticus xx. 5-6, Numbers xiv. 33, Deut. xxxi. 16, Judges ii, 17, viii. 27, 33;

and II Chron. xxxi. 2, says: Jehoram "made high places in the mountains of Judah, and made the inhabitants of Jerusalem to commit fornication (go a whoring), and compelled Judah thereto." See Revelation ii. 20-22, where adultery and fornication are used to signify the seducement of God's servants from His service, and "to things sacrificed unto idols." See also chap. xvii. 2, 6: "The judgment of the great harlot * * * with whom the kings of the earth committeth fornication * * * even the unclean things of her fornication."

Sometimes fornication notes the love of earthly things, or worldly pleasures, though in a believer. See Numbers xv. 39, where wilfull disobedience to any of God's commandments is called whoring: See too Psalm lxxiii. 27.

"An illustrious man," says Grotius in his notes, "shows that fornication is (sometimes) taken in Scripture for such a continual headstrong behavior as tends to the plain contempt of the husband, and proves it out of Judges, xix. 2, where the Levite's wife is said to have played the harlot with him; which Josephus and the Septuagint, with the Chaldean, interpret only of stubbornness and rebellion against her husband: and to this I add, Kimchi, and the other two rabbis who gloss the text, are in the same opinion."

I ask again: was there need our Lord should grant divorce for adultery? and repeat, this crime was death by law (Leviticus xx. 10), and law then in force. Moses punished one act of secret adultery by death, and permitted a whole life of open adultery by law! Alas for Moses!

I inquire, do you still insist that, our Lord's words pronounce against all divorce, unless it be for adultery? Then is that law in Deut. xxiv. 1 repealed? and this notwithstanding His profession in respect to such matters. Is it repealed? Then the Mosaic dispensation is convicted of impurity—How? It authorized and maintained adultery by statute, as I just said. But in no case does our Lord act as a legislator and an amender of the law of Moses.

Sooner adopt the opinion of Origen, who said that Christ named adultery rather as one example of other like causes, than as one only exception; in other words, fornication is a representative class, as De Wette says: Christ in "except for fornication"—gave a sample of exceptions which He held to be valid. Zwingle (on Matt. xix. 1-9,) tells us "here the Lord condemns the reckless divorce of the Jews, and not all divorces?"

It is usual both in human and divine laws, to express one kind of fact, by which other causes of like nature may have the like plea: see Exodus xxi. 18, 19, 20, 26; Deut. xiv. 5. And so Ambrose on I Cor. vii. grants that divorce may be had for fornication, and other reasons, while Austin on the Sermon on the Mount says "The Lord excepts the cause of fornication, which fornication we are constrained to interpret in a general sense" to signify other faults, besides adultery, for which a man may put away his wife, and a wife her husband. Jerome says "the suspicion of adultery" may repudiate a wife.

Erasmus maintains that the words of Christ include many other causes of divorce under the name of fornication. Hemingius says that "Christ under one special contains the whole kind, and under the name and example of fornication, He includes other causes equipollent."

Hunnius of Wittenberg, on Matt. xix, declares: "That the exception of fornication here excludes not other causes equalling adultery, or destructive to the substantials of matrimony; but was opposed to the custom of the Jews, who made divorce for every light cause."

Wesenbechius affirms "that our Saviour excludes not other faults equal to adultery; and that the word fornication signifies larger among the Hebrews than with us * * *; and that the primitive church interpreted so," Grotius says "that Christ made no civil laws, but taught us how to use law, * * * that the exception of adultery seems an example of other like offences;" and proves it "from the manner of speech, the maxims of law, the reason of charity, and common equity."

St Jerome and afterward the Christians of the East, allowed that adultery broke the bond of marriage as well for the woman as the man. Luther and Calvin say remarriage for both. Even Augustine had occasional doubts whether the innocent party, after putting away the adulterous one, might not marry again. Jerome, Ambrose, and others, justify the dissolution of marriage with an unbeliever.

CHAPTER XIX.

The Bible, the Church, and the State Recognize the Lawfulness of Divorce.

It was a maxim of Roman law long before the times of the Christian Emperors, that divorce with consent of both parties be freely allowed, and liberty to remarry; and this was continued to the sixth century, long after the time when the Emperors became Christian. Not only so, the civil laws of the days of Constantine, Theodosius, Valentinian, Justinian, Justin, and other pious Emperors, were favorable to the "dissolution of matrimony" for various causes.[B]

(B) Even Christian Emperors practiced divorce, either on political grounds, as Honorius, 395-423, who added to Constantine's law, or for private reasons, as Valentinian I and Theodosius II. Neither Constantine, who divorced his wife and married another, nor any of his successors (except Valentinian III) before Justinian, attempted to interfere with divorces by consent of the parties. The latter Emperor A. D. 528, abolished the law of "free consent," which was restored by Justin, and so continued till 900 A. D. when Leo the Philosopher forbade it. Julian, A. D. 361-363, brought things back to the old pagan channel, having abrogated

Indeed the Roman law during the Empire did not to any great extent prohibit divorce; nor did it, except in a few instances, prohibit remarriage. And the early fathers never cast out of the Church any one for marrying after a divorce, approved by the imperial laws.

Peter Martyr says I often wonder "how the ancient and most Christian emperors established those laws of divorce, and neither Ambrose * * * nor any of those holy fathers found fault, nor any of the churches, why the magistrates of this day should be so loath to constitute the same." *Quod bene notandum. Quod hoc sibi vult?*

The Goths, and after them the Lombards and Franks, who overrun the most of Europe, followed the Roman laws in their contracts in marriage. In the eighth century, among the Anglo-Saxons, the wife's adultery, impotence, desertion, and captivity, furnished grounds for divorce, with remarriage; of which the *Church in England admitted the validity.*

At that time, there was allowed, in France, a dissolution of marriage for some nine causes, one

the divorce laws of Constantine, whose Edict, 331 A. D., granted divorce for six reasons, three for either sex, and the right of remarriage.

The pagan Irish had rendered divorce useless by instituting marriages of one year, at the end of which the wife could be repudiated by the temporary husband and even ceded to another for a fresh year.

of which was mutual consent. The rule of "non dissolution," except for adultery, was first introduced into the State law of Italy by Charlemagne and the emperor Lothaire. In the tenth century the law of divorce in Wales was very lax.

Alexander III—September 7, 1159—August 30, 1181—who trod upon the neck of Emperor Frederick I., and summoned Henry II into Normandy about the death of Becket, Archbishop of Canterbury, first "decreed that matrimony for no cause should be dissolved, though for many causes it might separate; as may be seen decret Gregor 1. 4, tit. 19, and in other places of the canonical tomes."

Laws granting divorces for different causes remained in force as long as the Greek empire subsisted, and were assented to by that *Church*. In the Greek Church, marriage between the orthodox and heretics was forbidden and declared null, although in Russia since 1719 members of the established Church may marry members of other professions. In the Latin Church marriage with infidels or Jews or heretics has long been considered invalid.

I might cite here the authority of England, both *Church* and State, in the time of Edward VI,

favoring the granting divorces for many causes, and second marriage. The canon law in that kingdom being abrogated, Edward appointed by vote of Parliament a committee of thirty-two (32) divines and lawyers, to frame ecclesiastical laws, instead of those repudiated. Cranmer, Ridley, Martyr, Haddon, and other illustrious men were of the committee, who had the assistance of Sir John Cheeke. The work was finished, and with the cordial approbation of that age received. (*Reformatio legum ecclesiasticanum.*) A. D. 1552.

Those proposed laws allow divorce and second marriage for adultery, desertion, any capital enmity or plot against the other's life, evil and fierce usage, and even for lesser contentions, if they be perpetual. This work of the learned and pious commissioners would doubtless have been established by act of Parliament, had not Edward's death intervened and so arrested reform.

In the time of Elizabeth, many married again, after obtaining divorce—no civil penalties were attached to it. In the reign of James I., the absence of the husband for a series of years, without being heard from was made a sufficient ground for the contraction of a new marriage.

The leaders of opinion in the Lutheran Church, as also the learned divines in the Reformed Church, together with the Protestant Commentators of the sixteenth and seventeenth centuries, generally, allowed divorce for several or more causes, and remarriage, while the Puritans in the Church of England advanced yet more radical doctrine.

The Prussian kingdom under Frederick the Great allowed the dissolution of wedlock on a number of grounds, and the same may be said of its present laws on that question. The Church laws of the seventeenth and eighteenth centuries in Germany very generally favor divorce in two cases, while the provisions of the Austrian code, to day, applicable to non-Catholics, are very liberal: adultery, the commission of any serious crime, desertion for a year, assault endangering life or health, cruelty, aversion on both sides.

The Wertemberg ordinance grants divorces for a number of causes, also the Church legislation of Baden, and at this time the other States of Germany. A new divorce law (of the loose Roman practice) was passed by the National Convention of France in 1792, and continued in force eleven years.

The Code Napoleon, A. D. 1803, granted divorce for numerous reasons, though the Bourbons prohibited it after their restoration. Divorce was reintroduced by the law of July 27, 1884. In England, adultery may annul the marriage Rite, while the Scotch law allows its annulment for adultery or desertion.

Marriage may be set aside in Belgium, the Swiss Conferation, Holland, Denmark, Norway and Sweden for any one of many causes. Divorce in Russia can be pronounced by an *ecclesiastical tribunal* for any one ground of four.

To make my argument yet more impressive, I add that, the opinions of the early fathers, and Conciliar decrees—agree that divorce is lawful on account of adultery.[C] Of those in the primitive Church who granted divorce for other causes than adultery we have very many illustrious names. Next, be it kept in mind ever, the imperial law granting divorce for many reasons was not disallowed by the UNIVERSAL CHURCH in ages of her best authority.

And next, in harmony with this galaxy of godly men are others, made illustrious and historical be-

(C) The speech of Bishop Cosins, in the House of Lords, in the case of Lord Rosse, for a dissolution of marriage on account of adultery, and giving him leave to marry again, brought an overwhelming mass of authority, Conciliar and Patristic, in favor of the petition, which was granted.

cause of their great native talent, their vast acquirements, their profound wisdom, and their exalted piety. Who are these men of renown? See: Wickliff, Luther, Melanchton, Erasmus, Bucer, Fagins, Beza, Calvin, Zwingle, Cranmer, Ridley, Peter Martyr, Sir John Cheeke, Grotius, Milton, Calixtus, Aretius, Musculus, Gualter, Hermingius, Hunnias, and *very many others*.

And so it has been demonstrated that the HOLY SCRIPTURES, the CHURCH, and the STATE, one and all, in ancient and modern times, recognize and clearly allow the lawfulness of divorce for divers reasons, as also the validity of remarriage.

CHAPTER XX.

There is no need of words; believe facts.—*Ovid.*
Stare super vias antiquas.

Be it remembered, Moses and Malachi, Jesus and Paul, one and all, taught the lawfulness of divorce: and who authorized remarriage after it? Moses the divine lawgiver, Jesus Christ the God-man, and Paul the inspired teacher.

Be it further remembered, the ancient people of Jehovah,[A] primitive fathers, illustrious men of the Reformation, and Protestants ever since, have maintained the dissolubleness of wedlock and the legality of the divorced marrying again.

Be it yet further remembered, the most enlightened heathen of old, and the Greek and Roman Empires, as also the nations and peoples of almost every clime and age to the present time, have allowed divorcement, and remarriage to those so released from the bonds of matrimony. A world testifies to these things!

(A) According to the Talmudic Law, the wife is authorized to demand a divorce for any one of five reasons.

This testimony is decisive. *Quod semper, quod ubique, quod ab omnibus, creditum est. Sub hoc signo vinces!* "Divide the thunder," says Schiller, "into single tones and it becomes a lullaby for children; but pour it forth in one quick peal, and the royal sound shall shake the heavens."

Book II.

CHAPTER I.

Betrothal.

Throughout the patriarchal history, in the time of the Judges, under the monarchy, after the Captivity, in our Lord's time (Matt. xxiv. 38; Luke xvii. 27), in the Apostolic Church (I Cor. vii. 38) the right of the father to give his daughter in marriage, of the king to give one who was under his control, is either assumed or asserted.

The forms used in Jewish practice belong to the *material*, and not to the spiritual view of marriage, —it was viewed essentially as an act of wife buying. The Roman law starts from the material view (the father's ownership) and eventually *consent* is made the very essence of marriage. The validity of marriages contracted by mere consent was admitted in a constitution of Theodosius and Valentinian, A. D. 449, and is generally recognized in Justinian's Code.

In Barbaric Codes the ruling idea of *betrothal* was that of *wife buying*, and among the Jews *be-*

trothal was strictly a contract of *purchase* for money or money's worth (although two other forms were admitted.) The earnest (Arrha) was given either to the wife herself, or to her parents—the idea of wife buying; occasionally the father gave a dowry to his daughter. Betrothal was really for most purposes, the marriage contract; the violation of which by connexion with another was deemed adultery, and punishable as such,—the dissolution of which could only take place by "a writing of divorcement." The actual marriage was held to consist in the leading of the bride to the nuptial bed, and not in the blessing of the betrothed, says Maimonides.

The Council (D) of Constantinople in Trullo (A. D. 680-1) is the first œcumenical authority for assimilating betrothal to marriage, so far as to make it adultery to marry a betrothed woman in the life-time of her first betrothed. Betrothals *in the Church* did not obtain before the ninth century.

The present use of the ring in marriage has grown out of its use in marriage betrothal. Marriage was originally wife-catching—the ring is the symbol of the wife's captivity. Again, as signet rings came into use, the ring was looked upon as a

pledge of contracts, a symbol of faith between the parties. Now—a symbol of endless indissoluble union.

The ring was found by the early Christians in use among the Romans, and is placed on the fourth finger because the Greeks and Romans wore, of old, their rings on that finger. As late as the ninth century the ring was the essential of betrothal, not of marriage. The Greek ceremony requires two rings, one of gold and one of silver.

Among the Greeks and Romans it was the custom that the dowry should be paid or promised at the betrothal by the relatives of the woman. With the Hebrews (as with the Germans) the dowry was paid by the man, though occasionally the father gave it to his daughter. The Hebrew custom prevailed in the early Church, and is embodied in civil as well as in the canon law. The promise of a dowry was in writing, of the nature of a marriage settlement. Witnesses (ten in number) were present.

The crowning was originally a heathen and Jewish custom. The crowns were made of gold, silver, olive, myrtle, or flowers, according to the wealth and position of the betrothed. At the end of eight

days the crowns were solemnly removed and restored to the Church. After the betrothal the marriage took place within the next forty days, or at furthest the two succeeding years.

The voice that breathed o'er Eden,
That earliest wedding day,
The primal marriage blessing,
It hath not passed away.

CHAPTER II.

Benediction and Marriage.

Benedictions were often claimed in behalf of many kinds of contract, besides that of marriage—a sale for instance. Marriages could, and especially in the East, often did take place in houses, the religious ceremony does not form, and was not regarded as forming, the essence of marriage, which consists in the contract agreed to and publicly made between the contracting parties.

The secular marriage (without the benediction of the Church) was acknowledged to be valid in the West till the time of Charles the Great, A. D. 800, and in the East till that of Leo the Philosopher, A. D. 900. These two Emperors enacted that all marriages were invalid except such as were performed by a priest.

It is true that, after the sixth century the priestly benediction entered into the *civil* law as an essential requisite of marriage, though the mention of it

almost invariably occurs in connexion with the subject of *consanguinity*.

There is no hint of marriage being regarded as a sacrament, in the stricter sense of that word, in early times. St. Augustine, A. D. 430, uses the word "*sacramentum*" frequently in connexion with it, but nowhere in the modern sense of the word sacrament.[A]

The total absence from the Apostolical Constitutions of any notice of church usage in respect to marriage, is a conclusive proof that there was no ritual of the early Church during the first three or four centuries (or even more) relating to it.

As to the Eastern Church, Chrysostom in his voluminous works never indicates the existence of a marriage liturgy, or the indispensableness of sacerdotal benediction;[B] nor does Justinian's legislation, minutely occupied as it is with Church matters, ever once refer to the ecclesiastical benediction of nuptials.

In truth, many centuries elapsed before the pronouncing of a church benediction was held essential to the validity of marriage; hence the total absence of nuptial liturgies from the early christian rituals, extending to about the beginning of the

(A) See Schaff-Herzog, Vol. I, p. 31. (B) See Gregory Nazianzen also.

seventh century. In the eighth and ninth centuries the priestly benediction hardened into a legal institution, which was a new source of influence and income to the clergy and above all to the Roman pontiff. For instance, Pope Nicholas, A. D. 860, decreed that marriage should take place (1) in a church (2) accompanied by offerings and oblations made to God by the married persons through a priest, (3) followed by the solemn benediction of the church, together with other ceremonies of an ecclesiastical character.

CHAPTER III.

Divorce and Remarriage.[2]

The Council of Arles, A. D. 314, "enacted that young men who had put away their wives for adultery should be advised not to marry again, but that no yoke of compulsion was laid on them."[A]

In 313, A. D., a council was held at Iliberis. The eighth of the Acts of the Snyod says: "Women who *without any precedent cause* have left their husbands and joined themselves to others, may not have communion even at the last." Canon x is similar. This suggests that with provocation their cause would not have been condemned. Smith (Dictionary of Antiquities) quotes this Canon in favor of remarriage.

(2) Before the fifth century, the Church tolerated concubinage. The Synod of Mains (A. D. 851), C. 12, "Whoever has a concubine not regularly pledged to him can leave her, and marry another;" C. 13 "Whoever has both wife and concubine must be kept from communion; not so he who only has the latter." Valadolid (1322), C. 22, "A married man who has *openly* a concubine, and also every unmarried man who has an *infidel* concubine, is *ipso facto* excommunicated." The reform legislation in the Council of Basel (1431-1449) was of the most rigorous description against concubinage.

(A) Dictionary Antiquities, vol. II, p. 1112; also Petavius.

One of the Apostolical Canons says: "If a layman should put away his own wife and take another, or one divorced by another man, let him be excommunicated." This Canon in Smith's Dictionary of Antiquities is said to refer only to illegal divorces, and Balsamon, an Eastern Bishop of the thirteenth century, is given as the authority for this interpretation.

In the Apostolical Constitutions (lib. vi. c. 17) and in the so-called Fourth Council of Carthage, A. D. 398, (Canon lxix) the clergy are forbidden to be married to a divorced woman, which implies that under some circumstances at least a divorced woman might remarry.

Basil, Canon ix: An unchaste wife must be divorced. An unchaste husband not so, even if adulterous; this is the rule of Church custom. (Accepted by Trull. 2.) Elibertan Canon: The husband divorcing an adulteress may marry again, which an aggrieved wife could not do. The decrees of Pope Leo I (the Great) 440-441, allow the wives of prisoners of war to marry others, but they must return to their husbands, if relieved from captivity.

The Council of Vannes, 465 A. D., made concessions to the injured husband, See, too, the Council of Agatha, A. D. 506.

He who has made a promise of virginity and afterwards marries must be separated from his wife by the judge, who must be excommunicated if he will not do it, says the Second Council of Tours, A. D. 567, Canon xv; must undergo the penalty due for fornication, determines the Council in Trullo, A. D. 692, (Canon lxiv.) This is divorcement.

The Penitential of Theodore, Archbishop of Canterbury, 669 A. D.: "If any man's wife has committed fornication, he may put her away and marry another; * * * she, moreover, if she has shown penitence for her sins, after five years may take another husband." He pronounces, too, 688, that if a wife or husband is in captivity either may marry; and that if the wife refuses reconciliation, after five years the husband may marry again with the Bishop's leave (lib. ii. c. xii. § 19.)

The Council of Soissons, A. D. 744, sanctioned divorce, and the Synod of Vermerie, 752, also, as well as the Council of Nantes. In the excerpts of Ecgbrikt, Archbishop of York, eighth century, there is provision made for an Episcopal dispensation allowing a man to marry again, if the Bishop will grant his request, after he has been deserted by his wife for five or seven years.

There is also, in the collection another Canon allowing remarriage, after separation through captivity; and if either be impotent the other may marry. Gregory II, in the eighth century, said of a man whose wife was impotent, let him marry another.

Charlemagne (d. 814) after repudiating his wife and marrying another, reenacted in his Capitulary the prohibitory decrees of the Councils of Carthage and Milevi! Generous Charlemagne! *He first helps himself* and then denies to others. This man whose want of chastity, and disregard of the marriage vow was notorious, compelled the Saxons, by force and with unexampled cruelty, to receive baptism. Pious Charlemagne! He must needs enforce the decrees of Councils. Fit agent for the object in view.

Ninth century: Two Councils were held in Rome, under Pope Eugenius II. and Leo IV., and in these liberty of remarriage after divorce was granted to the innocent party.

At the beginning of the eleventh century Alexius, Patriarch of Constantinople, drew up a series of Canons on the Dissolution of Marriage, for the Eastern Church, and these have been considered binding ever since:

1. "The Priest who gives the marriage blessing to a woman divorced from her husband is not to be condemned, if the man's conduct was the cause of separation."

2. "Women divorced from husbands whose conduct was the cause of separation, are blameless, if they wish to marry (again), and so are the Priests who give them the blessing on the union. The same rule applies to men."

Archbishop Laud officiated at the marriage of his patron, the Earl of Devonshire, to a lady who had been divorced for adultery. At the Restoration "An Act for Lord Rosse to marry again" passed the House of Lords, and in time it was followed by the Duke of Norfolk, and others.

All through the eighteenth century private Acts for divorce were multiplied in an ever increasing ratio. At last the Parliament returned to the intervention of a spiritual Court, and granted a dissolution only when the Church had pronounced for divorce *a mensa et toro*. This method of procedure led to class legislation, granting to the rich what was wholly beyond the reach of the poor, for such an Act commonly cost several hundred pounds, at times as many thousands.

In 1857 a special Court was established "For Divorce and Matrimonial Causes;" any husband could obtain a divorce on the ground of his wife's adultery, and any wife on the ground that her husband had been guilty of adultery accompanied with aggravated cruelty, or of incest or certain other unnatural crimes. Further, it enacted that after a dissolution of marriage "it should be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death."

CHAPTER IV.

Slave-Marriages.

Society in antiquity was based on slavery, and at no period of history was the slave system more completely organized than in the Roman Empire during the life of Christ. Among the early converts there were, of course, masters and slaves, for the principle of slavery was maintained under the Christian Emperors, and no slave code ever existed which defined more sharply the line separating freemen from slaves than that of Justinian (A. D. 529).

While the Hebrew law recognized in the slave a capacity of contracting marriage, according to the Roman law, there could be no such thing as the marriage of a slave: he was a thing, not a person, and the utmost he could attain to was *contubernium*, not *connubium*. And what was *contubernium?* Why, a concubinage between one man and one woman, and recognized by the law as marriage in an inferior sense. Even that was forbidden to their

slaves by many masters, whose *express consent was a condition of the nuptials.*[A]

The Apostolical Constitutions command a master to give his consent to the marriage of slaves (lib. viii. c. 32.) However, St. Basil's first Canonical Epistle, addressed to Amphilochius, Bishop of Iconium, treating evidently of slave marriages, says: "A woman who has given herself to a man against her master's will has committed adultery" (c. 40).

And in Basil's Second Canonical Epistle to Amphilochius (Op. tom. iii. p. 296, Paris 1730) he pronounces that "the contracts made by those who belong to others are of no force" (can. xl.) except when made by the consent of their master. This became the law of the early Church. DIVORCE WITH A VENGEANCE!!

The Apostolical Constitutions: "If a believer has a slave concubine let him give her up [divorce] and lawfully marry a wife. If he has a free woman for a concubine, let him take her for a legitimate wife," (lib. viii. c. 32). The marriage of a freeman with a slave not permitteed.

By a law of Constantine a *decurio* who married another man's slave was ordered to be banished,

(A) The male slaves in Rome were about five times as many as the female slaves; hence very many of the former had no chance to marry.

while the woman was to be sent to the mines. Divorce! Pope Leo I., A. D. 443, forbade the nuptials of a freeman with a slave.

The Fourth Council of Orleans, A. D. 541 (can. xxiv., Hard. Concil. tom. ii. p. 1440), ruled that slaves, who put themselves under the protection of the Church, with a view to getting married were "to be restored to their parents or masters, as the case might be, and made to promise that they would separate" * * * Divorce.

Among the canons of Theodore of Canterbury are found two, one of which recognizes the validity of marriage between a freeman and a slave, while the other allows husbands or wives who have gained their freedom to dismiss their consorts, if the latter cannot be redeemed from slavery, and to marry freeborn persons instead. Divorce and remarriage. A third canon rules that if a man has reduced himself to slavery by crime, his wife may, at the end of a year, marry another man. *Remarriage without divorce.*

The Councils of Vermerie (canon xiii.) and of Compiegne, (canon v.), A. D. 753 and 757, admit and enforce the legality of marriages entered into between the free and the slave. But if a man married a slave under the apprehension that she

was free, the error was considered to affect the substance of the contract, and the marriage was thereby invalidated.

The Second Council of Chalons, A. D. 813, pronounced that the marriages of slaves belonging to different masters were not to be nullified, if once the masters had consented (can. xxx). Divorce without consent.

Up to the time of Basil, the Macedonian, no marriage of a slave was permitted to take place in the Church: the union of male and female slaves being still regarded as *contubernium*, not having the sanction of the *connubium*, essential to the valid, legal marriage of the Romans. Basil (867-886) directed that the priestly benediction should hallow the marriage of slaves. This enactment met with violent opposition. Alexis Commeniss (1095) renewed the edict, invoking for its support the Christian maxim, "one God, one faith, one baptism."

CHAPTER V.

Asceticism versus Marriage.

Converts who had grown up and been steeped in Jewish and Heathen errors evidenced the indistinctness of vision by those who issue from thick darkness into the light of day. Many of the early Christians made use of charms and amulets to secure themselves from danger and drive away bodily distempers.[A]

Even the writings of the Fathers abound in puerilities and marks of childish credulity. For St. Chrysostom's belief in the sign of the cross as a charm to quench poisonous drugs and heal bites of venomous beasts see his writings.[B] For a similar belief on the part of Tertullian see Scorpiace, 15. And Athanasius, the "Father of Orthodoxy," tells us that St. Anthony, the father of monasticism, experienced bodily ill-treatment from the demons!

(A) Bingham's Antiquities, B. xvi. c. 5., Sec. 6.
(B) Homily 54 ¶ 7, 'On the Gospel of Matthew.'

Asceticism, which exerted a mighty influence in the first centuries of the new era, was not of Christian origin. It was found with the Essenes among the Jews, among the Hindoos and Buddhists, with the Pythagoreans and Stoics among the Greeks, and it was introduced into Christianity through contact with the Alexandrian school of philosophy.

This asceticism claimed to represent a higher stand point, and so there arose very early in the Church an idea that the unmarried state ought to be preferred to the marriage, and the idea soon developed into actual contempt of matrimony.

Anchorites lived in caves, avoided all intercourse with their fellow-men, abstained as much as possible from food, spoke no word, but prayed in silence.

Those who formed public opinion inspired their followers with love for asceticism. St. Ambrose recommended virginity and separation from the world as an easier and surer way to purity and holiness. St. Augustine, who, in his early manhood, lived twelve years with a concubine or "kept mistress," whom he finally abondoned, though he took a second one, regards the cloister life as the very summit of piety. Jerome com-

mended monastic life, and died in a convent which had been his home for thirty-five years.

The spirit that depreciated and discouraged wedlock, of course discountenanced ALL *second marriages*, of the divorced or of the bereaved in the order of nature. Read Hermas, Origen, Clement of Alexandria, and others.

Ambrose (or Hilary the Deacon) says "second marriages are *left without honor, even at the time of celebration*, but they are allowed on account of incontinency." Tertullian who was originally a Pagan, then a Christian, and then a Montanist, maintained that a second marriage was equal to a marriage with two wives at one time, and therefore forbidden! Athenagoras pronounced against all second marriages, because he who deprives himself of even a deceased wife by taking another is an adulterer!!

The Council of Neo-Cæsarea, A. D. 314, forbids presbyters to be present at the festivities of a second marriage; and the ceremonies of crowning the bride and the bridegroom, and giving the benediction were commonly, though not universally omitted. Gibbon tells us that those who committed this offence were soon excluded from the honors and even from the alms of the Church.[c]

(C) Decline and Fall, vol I, p. 314.

Indeed, The Council of Nicæa, A. D. 325, found it necessary to order that such "as were ordained should give a written bond that they would communicate with those who had married a second time."[D]

Basil speaks of a penalty due to second marriages as a well-known custom in the year 375. In later times penance was sometimes imposed.[E] In the East Nicephorus, Patriarch of Constantinople, A. D. 814, fixes two years as the period for suspension from Communion for a second marriage.

In truth, we cannot but notice, even in the greatest of the Christian Fathers, as well as in others, a lamentably low estimate of woman, and consequently of the marriage relationship, which was regarded as a *necessary evil to be shunned by those who aimed at a holy life.*

Matrimony was to be entered upon by those who were unable to control their lower nature, or else sought with a view to the propogation of the race, the having children. Woman was looked upon in the light of a *breeder.* Merciful God!

(D) Canon VIII.
(E) See Councils of Laodicea and Carthage, also Theodore's Penitential.

What has become of the "helpmeet" Thou gavest man! her sweet, confiding, loving companionship!

* * * the rainbow to the storms of life!
The evening beam that smiles the clouds away,
And tints to-morrow with prophetic ray!

Book III.

CHAPTER I.

Consanguineous Marriages.

No innate horror of incest shows itself intuitively when persons are ignorant of relationship. Huth, Marriage of near Kin.

The sons of Adam probably married their sisters. In remote times there was no prohibition against marriage on the ground of consanguinity,—see Herodatus, Plato, and Aristotle.

Abraham married his sister, who was the daughter of his father, Amram, who married a paternal aunt. The Jews practised consanguineous marriages, like the Canaanites and other tribes their neighbors. The Egytians and Arabians, Medes and Persians, Parthians and Scythians, the ancient Peruvians and Germans, the inhabitants of Northern Africa and of Ireland married their sisters, not to name those who wedded mothers and daughters.[1] The Chinese practised promiscuity up to the time of Fuhi who first separated the sexes, instituting marriage and its laws.

(1) Tho Persian Magi and the ancient Irish married mothers and daughters.

The first restrictions against marriage on the ground of consanguinity were enjoined by Moses, who forbade wedlock between kin of the same blood, nearer than first cousins. These restraints were only to a certain degree adopted by the Greeks and Romans.

In the first century the intermarriage of first cousins was unknown at Rome. Theodosius the Great forbade it in the imperial Code, and imposed the severest penalty (fine and confiscation of goods) on the transgressor. The restriction was finally withdrawn both for the East and for the West under Justinian's legislation in 529 A. D.

The *early* Church on the subject of the marriage of *cousins*, made no objection, until the legislation of Theodosius (the end of the fourth century). The Church followed the imperial lead in the first age. From the fifth century onwards ecclesiastical authority (Councils, &c.) condemned marriages with first cousins. Smith says: "It is noticeable that prohibitions of marriage on the ground both of cousinhood and of spiritual relationship originated not with the Church, but with imperial legislation?"[A]

(A) Dictionary of Antiquities, Vol. II. p. 1730.

The marriage of uncle and niece was legalized (and remained on the statute book till 339 A. D.), to meet the desires of the Emperor Claudius, who had become enamoured of Agrippina, the daughter of his brother Germanicus. His example was followed by others.

The Latin Church, which in the Middle Ages assumed exclusive jurisdiction in all things pertaining to matrimony, and placed the celebration of marriage among the sacraments, extended prohibition, under Gregory III (A. D. 731), to the seventh canonical degree, which was equivalent to the fourteenth civil degree; and prohibited marriage between sixth cousins. The Fourth Lateran Council (A. D. 1215), decreed that thenceforth the prohibition should not exceed the relations of fourth cousins.[2]

Every unlawful impediment directly tends to produce immorality. When the popes prohibited marriage within very wide degrees, the people only made use of these prohibitions either to live immorally or to get rid of their wives or husbands, as the case might be. Not only so: the numerous

(2) Canon law: First cousins are said to be related in the second degree, because from each there are two steps to the grandfather in whom their blood unites. Civil law: First cousins are related only in the fourth degree, because from one cousin to the grandfather there are two steps, and from the grandfather to the other cousin there are two.

prohibitions of marriage rendered it necessary for the princes of Europe, who seldom could marry into one another's houses without transgressing the Canonical limits, to keep on good terms with the Court of Rome.[B]

The Church for proper considerations granted special dispensations relaxing the severity of these rules; its canons now preclude intermarriage only among blood relations nearer than second cousins, and a special dispensation is sometimes given for first cousins to wed.

The third canon of the Council of Trent on the sacrament of matrimony is as follows: "If any one shall say that only those degrees of consanguinity and affinity which are expressed in Levit. xviii. 6sq. can prevent the contracting of marriage, or separate it when contracted, or that the Church cannot give a dispensation in regard to some of them, or enact that others besides shall not prevent and separate [marriage], let him be anathema."

In France aunts and nephews, uncles and nieces, brothers and sisters-in-law, and cousin german may

(B) Hallam, Middle Ages, ii. 19. (B) Conc. Trid. (A. D. 1563) Sess. xxiv., C. B. Among the Phenicians at Tyre, down to the time of Achilles Tatius, a man might marry his father's daughter, and also among the Assyrians and Athenians. In the time of Cæsar the Britons practised group marriage; nor did they pay any regard to consanguinity. (Cæsar v. 14.) By the Prussian law, marriage between uncle and niece is permitted, and may be sanctioned in Italy by the King.

marry. The marriage of first cousins is not contrary to the canon law which prevails in the Church of England. In 1563 A. D., Archbishop Parker drew up a Table of Prohibitions, which contained several not named in the Levitical Code. It was adopted by Convocation, and ordered to be set up in churches. It is a law of the Church, as are the Canons of 1603 A. D. which embody it. Both are sometimes, for convenience of reference, printed under the same cover with the Book of Common Prayer. In fourteen States of the American Union the marriage of first cousins is prohibited by law.

In the Old Testament three of the curses to be uttered on Mount Ebal (Deut. xxvii. 15-26) relate to incestuous marriages; see also Levit. xviii, 16, 17; xx. 11-21. In some instances death is made the penalty.

CHAPTER II.

Marriage in Early Arabia.[A]

Tradition is found everywhere pointing to a time when marriage was unknown, and to some legislator to whom it owed its institution: among the Egyptians to Menes; the Chinese to Fohi; the Greeks to Cecrops; the Hindus to Svetaketu. Muirs.[B]

At an early age polyandry[C] was common in a very large portion of the world, and its very grossest forms once spread over all the Semitic area.

In what is called Nair polyandry the woman remains with her own people but entertains at will such suitors as she pleases; her husbands may be of various kins. In Tibetan polyandry a group of kinsmen—in Tibet a group of brothers—bring a female home, who is their common wife and bears children for them.

(A) See Primitive Marriage, McLellan—and Kinship in early Arabia, Smith.

(B) Sanskirt Text, Part II. p. 336.

(C) Cæsar informs us that in his time polyandry prevailed among the Britons. (De Bello Gallico, lib. v. c. xix.)

The group of kinsfolk that had a wife in common was originally a group of mother-kin. Kinship *through women* was doubtless fully established before male kinship.

In mot'a marriage the woman did not leave her home, her people gave up no rights which they had over her, she received the husband in her own tent, among her own kin, and the children of the marriage did not belong to the husband, being brought up under the protection of the mother's kin and are of her blood.

She chose and dismissed the partner at will. In certain tribes if they lived in a tent they turned it around, so that if the door had faced east it now faced west, and when the man saw this he knew that he was discarded and did not enter.

Two systems of what may be called wedlock preceded the establishment of the ordinary ba'al marriage with male kinship in Arabia. In respect to this last named conjugal connection, it may be said that, marriage by purchase is found throughout the Semitic races wherever the husband is the wife's ba'al or lord. The Arabic *mahr* is the same word with the Hebrew *mohair*, which is also paid to the damsel's father (Deut. xxii. 29). The etymological sense is simply "price." The children remain with the father's kin and are of his blood.

The subjection of women to their husbands is regarded by the Arabs themselves as a virtual captivity. Marital rights were treated absolutely as the property of the husband, or failing him, of the husband's heirs.

Very widespread in Arabia was this custom: when a man's father or brother or son died and left a widow, the dead man's heir, if he came at once and threw his garment over her, had the right to marry her under the dowry paid by her deceased lord, or to give her in marriage and take her dowry.

But if she anticipated him and went off to her own people, then the disposal of her hand belonged to herself. See also the book of Ruth (iii. 9) where the young widow asks her husband's kinsman Boaz "to spread his skirt over his handmaid," and so claim her as his wife.

Marriage which involves no subjection may be called Sadica marriage, and the woman may be spoken of as a *sadica* wife, while the husband is a sadic husband.

The totem-stock was the ancient Arabian kindred group, before the development of the modern family, at a time when all were kin who bore a common totem stock-name and (probably) impressed on their bodies a distinctive totem-mark.

The ancient Arabians were indifferent to the paternity of children, since they belonged to the tribe. Divorce was of various kinds, and in one type of marriage either spouse could dissolve the union.

Mohammed's law of consanguinity forbids marriage between relations nearer than cousins on either side, as also with two sisters at the same time. In spite of the Prophets humane ordinances the place of woman in the family and in society has steadily declined under his law; and she now has as inferior a position among Mohammedans as she occupies among Pagans. Poor woman! Talk not to me of man's inhumanity to *man*. I will have none of it! O woman! Thou art my mother, thou art my sister, my wife, my daughter. The seed of cruel injustice planted in a selfish soil, and watered with woman's tears, grew and towered and spread its limbs and cast a baleful shadow more fatal than the deadly upas. Blasted be its boughs and cursed be its roots!

CHAPTER III.

The Family—Hebrew.

Among the Hebrews the husband and father was a king and lord. He was, by the right of nature, the ruler of the whole community formed by his living descendants. He might sell his child to relieve his own distress, or offer it to a creditor as a pledge.

The sacrifice of a child by its parent in honor of the Deity was a wide-spread custom during primitive religions. The exquisitely touching passage in the *Agamemnon* of Æschylus, which describes in words of wondrous beauty the anguish of the father constrained to sacrifice his child are naturally brought to one's mind when reading of the trial of Abraham's faith.

The patriarch (the father ruler) had not only to contend with *natural affection*, but with *reason*, and with faith. A tradition preserved by Josephus makes Isaac twenty-five years old at this time. There was no attempt at escape—no remonstrance,

no resistance. Isaac was a willing party to the sacrifice of his life. His heroic act was second only to that of his father.[A]

How important were the duties of the child to the parents, may as Ewald remarks, be learned from the placing of the law on the subject among the Ten Commandments, and from its position there in close proximity to the commands relating to the duties of man to God.

Woman was regarded as an object of sale, purchase and ownership. The practice of buying wives was almost universal. Laban and Bethuel received gifts from Abraham's servant, to whom they say: "Rebekah is before thee; take her, and go, and let her be thy master's son's wife.[B] Jacob paid for his wives in labor.[1] Shechem says to Jacob, whose daughter, Dinah, he wishes to espouse, "ask me never so much dowry and gifts."[2] Hosea, in a symbolical prophecy, gave for a wife fifteen

(A) See Butler's Bible Book.

(B) Laban and Bethuel seem to be *brothers*, of whom Laban was the eldest and chief; for the opinion of Josephus appears to be correct, that Bethuel the father had been sometime dead (see v. 28). Already Isaac was verging on the age of 40.

(1) The custom of obtaining a wife for services rendered to her father is widely diffused among the uncivilized races of America, Africa, Asia, and the Indian Archipelago.

(2) A modification of the patriarch principle took place as early as the seventh century B. C., and, according to the Talmudic law, a marriage to be valid, must be contracted with the voluntary consent of both the parties concerned.

pieces of silver and a quantity of barley,—the usual price of a slave.[C]

From the beginning, fathers selected for and gave to their sons a bride (Gen. xxiv. 3; xxxviii. 6.) Where there was no father, the mother selected the bride for her son (Gen. xxi. 21). Besides the customary presents given to the bride and her relations (Gen. xxiv.53), a price was stipulated, which was to be paid to the father of the maiden.[D] This price could be paid either in money (Deut. xxii. 19), or by service rendered. For the origin of the rule prohibiting an heiress from marrying out of the tribes of her family see Numbers 36.

A dowry was very seldom given to the bride. In early days the "mohar" or a part of it, was given to the bride herself. Abraham's servant "brought forth jewels of silver, and jewels of gold, and raiment, and gave them to Rebekah: he gave also to her brother and her mother precious things." The gifts of Rebekah were her dower; those to her kindred were a sort of purchase money, according to the marriage customs of the times. The etymological sense of "mohar" is simply price.

(C) In the sacred books of the Iranians nothing is said as to a *dowry*, nor of the giving to any one of presents, which might represent the bride-price. The code of Menu, moreover, discountenances the taking by the father of a gratuity for giving his daughter in marriage as an "actual sale" of the daughter.

(D) Gen. xxi, 15. xxiv. 12; I Sam. xviii. 23, 25; Exod. xxii. 17.

In olden times, the marriage contract was made between the parents only (Ruth iv. ii), or by sworn promises (Mal. ii. 4). Solely in the post-exile period do we meet with written contracts (Tob. vii. 14), that is, a document securing property to the wife—"an instrument." The Talmudists styled it a *ketubah*, and have laid down minute directions as to the disposal of the sum secured, in a treatise of the Mishna expressly on that subject.

The Mosaic law contained no rules as to the matrimonial covenant; and there is no evidence, either in the Scriptures or in the Talmud, that religious rites accompanied marriages among the Hebrews—not a particle of proof of any sort of a priestly consecration.

The nuptial benedictions were of two kinds: 1. given at the betrothal; 2. at the nuptials. A marriage was equally valid without either being given, says Maimon. The presence of a rabbi or priest was unnecessary, for the bridegroom himself, or any of the laity present, might repeat the form or not.

The essence of the ceremony consisted in the removal of the bride from her father's house to that of the bridegroom or his father.[E] Marriage

(E) Smith's Dictionary of the Bible.

was looked upon as a religious duty. There was a proverb : "he who has no wife is no man."

Poligamy,[G] which was in the world at an early date, and practised in almost every country by the primitive races, was allowed among the ancient Hebrews (Gen. iv. 19; I Chron. ii. 18).[H] The cases of poligamy were very few, except those of kings and great men.

By degrees, monogamy gained a firm foothold and wedlock was finally regarded as a sacred covenant;[12] its basis being the institution of marriage at the creation of man. Connection with an unmarried woman was not esteemed as adultery, so long as poligamy existed, which ceased from the time of the return of the Hebrews from the captivity. There were public prostitutes at all times.

(G) The creation, at first, of one man and one woman made the original form of marriage monogamy. The continued balance of the number of the sexes, age after age, notwithstanding their perpetual increase, was an ever increasing confirmation of the same law. Then, too, the evils resulting from poligamy furnished, in time, still further and stronger corroboration of the original form of wedlock. "A man shall cleave unto his wife" (not wives), and so the monogamus family is the primitive domestic institution.

(H) Poligamy was practiced by the Egyptians at least at the commencement of the Middle Empire, as also among the early Arabs, in ancient Persia, and elsewhere. The primitive Slavs were poligamists, and their king Vladimir, before embracing Christianity, had 800 concubines in three different localities. Cranby in his history of the Saxons, affirms that poligamy was never known among the northern nations of Europe. According to Tacitus, the richer German nobles sometimes had several wives to add to their importance.

(12) Prov. ii, 17; Mal. ii, 14; Hosea ii, 20.

Marriage was the universal custom. Divorce was at the pleasure of the husband, and, sometimes, there was the introduction of a second wife into the family: for instance—Abraham and Hagar, Jacob and Bilhah.

The concubines of Scripture were in fact true and lawful wives, though generally holding a lower rank in the household, and not infrequently being bondswomen, as was Hagar.

In Gen. xxv. 6 is written "the sons of the concubines who Abraham had"—probably the sons of Hagar, and of Keturah who, xxv. 1, is expressly called a wife; and it is also noticed that Keturah is called a concubine (I Chron. i. 22). See Judges xix and xx where the woman is constantly designated a concubine and yet the Levite is spoken of as her husband, and her father as his father-in-law. "Every concubine is a lawful wife, though every wife is not a concubine."[14]

A marriage of this class constituted a permanent conjugal relationship, to the duties of which both parties were bound to be faithful, and which could only be dissolved by divorce or death. It conferred upon the wife a lower social status, and the issue of it, though legitimate, possessed no legal claim upon the inheritance; the parent endowed

(14) Homilies of the Church of England: Second Book No. 10.

the children of secondary marriages during his own lifetime with a portion of his property.[15]

The right of a husband to put away his wife existed among the Hebrews before the giving of the law, appears from the fact that Moses did not institute the law of divorce, but merely recognized and regulated the practice, which, doubtless, was not unusual among that people in Egypt.[16]

Arbitrary divorce—at the pleasure of the husband—which is the most ancient form, reduces women to slavery by placing them entirely in the power of their husbands. The man who had the power to drive a wife from her home and her children had an AWFUL power.

The levirate rule which required that, when a widow had no children, her husband's brother should marry her "to raise up seed nnto his brother," made her his wife *without any form of marriage*. This rule was general, as is seen by the customs of the Celts, the Greeks, the Hindoos, and others.

(15) Before the fifth century, the Church tolerated concubinage. So the Council of Toledo (A. D. 400) in its seventeenth Canon: "If any one has not a wife, but instead a concubine, let him not be kept from communion."

(16) Josephus says that an order of the Essenes tried their spouses for three years, and then married them only if there was a prospect of their union being fruitful. The Levitical Code of Marriage was based on the inferiority of woman: The daily prayer of the Jew in which a man was taught to bless God because He had not made him a Gentile, a slave, or a woman—the son of Sirach: "Better is the baseness of man than a woman's goodness," Ecclesiasticus xlii. 14.

The patriarchal family is a Semitic institution. Jacob with his numerous wives, his horde of servants, his immense flocks and herds, with himself as the sole ruler, is a type of the family as it existed in the Semitic race.

The Hebrews looked on *beena* marriage as the oldest (primitive) type of lawful union of the sexes—Gen. ii. 24—the husband goes to live with the wife's people. The *beena* marriages of Jacob, in which Laban plainly had law on his side in saying that Jacob had no right to carry off his wives and their children. Joseph's children by his Egyptian wife become Israelites only by adoption; and in Judges xv. Samson's Philistine wife remains with her people and he visits her there. These things illustrate what is presented in Gen. ii, 24, which implies that the husband is adopted in his wife's kin—he goes to live with her people.

As a rule near kin intermarried, and marriages with foreigners were forbidden. An heiress was bound to marry her nearest kinsmen. The Mosaic law gives daughters a share in inheritance only in default of sons, and even this law is one of the latest in the Pentateuch.

The story of Ruth (iii. 9), where the young widow asks her husband's kinsman Boaz "to

spread his skirt over his handmaid," and so claim her as his wife, shows that the Hebrew custom agrees closely with that prescribed by the law of Menu. We now understand why words meaning garment are used in the original to mean a spouse. Compare his "garment," his "wife," in Mal. ii. 16. The symbolism of plucking off the shoe on declining to form a levirate marriage is similar. "Shoe" also means "wife." A Bedouin form of divorce is "she was my slipper and I have cast her off."[A]

Ba'al marriage or marriage of dominion: the wife who follows her husband and bears children who are of his blood has lost the right freely to dispose of her person; her husband has authority over her and he alone has the right of divorce. Accordingly the husband in this kind of marriage is called among the Hebrews and Aramaeans, as well as in Arabia, the woman's lord or owner. (Comp. Hosea ii, 16.).

(A) See W. R. Smith, Kinship and Marriage in Early Arabia, p. 269.

CHAPTER IV.

The Family—Greece.[A]

"It may be fearlessly asserted," says Lecky's History of European Morals, "that the types of female excellence which are contained in the Greek poems, while they are among the earliest, are also among the most perfect in the literature of mankind."

"Woman in the Homeric Age," says Mitford "enjoyed more freedom, and communicated more in business and amusement among men, than in after ages has been usual in those Eastern countries; far more than at Athens in the flourishing times of the Commonwealth."

Mr. Gladstone remarks that the general tone of the intercourse between husband and wife during the Homeric age is "thoroughly natural: full of warmth, dignity, reciprocal deference and sub-

(A) In every aspect, physical, economical, intellectual, moral, the *family* is the appointed nursery of the human race for the well being of the individual and the advancement of society. In Hebrew a family is called a house, and so to beget children is to build.

stantial if not conventional delicacy * * * Of rude manners to a woman there is not a real trace in the poems * * * the women of Homer are truly and profoundly feminine. As to the intensity of conjugal love, it has never passed the climax which it reaches in Odysseus and Penelope."[B]

Herodotus says The Athenians, when the Pelasgians possessed that which is now called Greece, were Pelasgians, and went by the name of Cranai; under the reign of Cecrops, they were surnamed Cecropidæ; when Erectheus succeeded to the government they changed their names for that of Athenians; and when Ion, son of Xanthus, became their leader, from him they were called Ionians.[C]

Athenian law prohibited, under severe penalties, the marriage of a citizen with a foreigner. Themistocles was not a citizen because his mother was a foreigner, and Eschines charged that Demosthenes was not of true Greek descent. Pericles himself was no real citizen, because his parents were not Greeks; but the son of Pericles by his Greek wife was a true Athenian citizen.

(B) Juventus Mundi, p. 411.

In later Greece all this was changed. The idea and place of woman "Sank with the lapse of time." Studies in Homer, vol. II, 517, 518. In the legends of the house of Priam we have instances of brothers succeeding to their brothers' widows.

(C) Bk. VIII. 49; and see Bk. I. 56, 57.

Although concubinage was permitted among the Greeks of the heroic age, as indeed, of subsequent times, the practise of poligamy, except under special circumstances, was prohibited.

Marriage in reference to the procreation of children was considered a necessity, "enforced by their duty to the gods, to the state, and to their ancestors."[D] Isaios said: "No man who knows he must die can have so little regard for himself as to leave his family without descendents, for then there would be no one to render him the worship due to the dead."

While the wife was a citizen, protected by the law, and enjoyed all civil rights, among the Greeks, and all the ancients, the father was looked upon as the sole author (creator) of the being of the child, to whom the mother supplied little more than nourishment—nurse [E]

The family, as it appears in early Greece and Rome, is still a religious institution. Its fundamental principle is the duty of the worship of the dead ancestors. The dead as well as the living are its members. The family of the classical period of Greece was less pure but more religious than the Homeric family.

(D) Backer. (E) M. Meinard.

A simple unsensual mode of living at first degenerated in the historic ages of Greece till the sanctity of Athenian and Spartan married life was not respected. The later Greeks of the Macedonian and Roman period were particularly immoral, both outside of Greece and within it.[1]

Concubinage and intercourse with the *hetairai* or courtesans was even favored by the State, and openly practised by Socrates and Pericles.[F] The women of loose virtue being accustomed to associate much with men were more intelligent than their sisters, who were denied this intercourse; and yet, beauty without virtue is like a flower without perfume.[2]

Sir John Lubbock says that the honor in which the Hetairaę were held at Athens as compared with legitimate wives was because the former represented the native women, who still practised

(1) If a lesson is to be drawn it surely is that, as with individuals there is no place like home, so with a State, there is no institution like home; that a community can be great only where there are happy, harmonious and virtuous homes, and that homes cannot be happy and harmonious and virtuous unless woman is accorded a worthy place in these homes, with freedom of action, with a consciousness of responsibility, and with the right, unfettered by circumstance or prejudice, to develod all that is best and noblest in her to the utmost perfection.—*Donaldson.*

(F) The "Records of Ancient Matters" shows us that the ancient Japanese practised "*hetairism.*"

(2) Socrates invited the Courtesan Aspasia "to talk on the question, how she might ply her occupation with the most profit."

communism; while the latter represented strangers and Captives.[G]

The opinion prevailed that woman was inferior to the masculine sex, and so her position was a very humble one, which exerted little or no influence. *Nous avons change tout cela.*

"From first to last among the Greeks there was a principle of egotism or studied selfishness at work among the males, tending to lessen the appreciation of woman, scarcely found among savages."—Not that women were treated with cruelty, nor with discourtesy within the range of their permitted privileges, "but their education was superficial, intercourse with the opposite sex was denied them, and their inferiority was inculcated as a principle, until it came to be accepted as a fact by the women themselves."[H]

In betrothal the consent of the parents of the fair one was necessary, and by them she might be obliged to accept a stranger for a husband. Euripides causes Hermione to declare it is her father's business to provide a husband for her.[B] The dowry of the bride was settled at the betrothal. Euripides

(G) "Origin of Civilization," p. 127; and Appendix, p. 529.
(H) "Ancient Society," Morgan, p. 474.

makes Medea complain that her sex had to purchase husbands with great sums of money.[c]

At Athens, the administration of the dower belonged to the husband, but it did not become his property. In case of a divorce, or the husband's death, the dower had to be restored to the woman; or if, in event of divorce, it was not restored, the husband paid, whilst it was retained, nine obili every month as interest. A woman could demand and obtain a divorce if she was ill-treated by her husband.[z]

In the seclusion of her home, the Grecian maiden had no intellectual companionship with men, indeed, the wife had no share in the intellectual life of her husband. "Is there a human being," Socrates asks of one of his friends, "with whom you talk less than with your wife?" Obedience was by the husband exacted as a right, and the wife willingly obeyed.

(B) We are told by Pausanias that Danaus established a race for his daughters—"he that outran all the rest was to have the first choice, and take her whom he most approved; he that was next in order was to have the second choice, and so on to the last." The many suitors of the daughters of Antæus were stationed at the end of the race-course, and he should have her for his bride who should prove foremost in the race and first touch her garments. Then, we have a race for the suitors of Penelope.

(C) The Mohametans, as a rule, settle very large dowers on their wives, considering it a religious duty so to do.

(z) Among the Athenains, if a man caught another in the act of criminal intercourse with his wife he might kill him with impunity. The law was the same in all Greek States. The infidelities of a husband were viewed more leniently, and gave the wife no right of action for divorce!

In truth, in ancient Greece wedlock implied at first the complete slavery of the wife, who was treated as a thing. Marriage by capture, and afterward by purchase, was customary in early times. The Spartans retained marriage by capture as an important symbol in the nuptial ceremony, which, in Greece, never required the assistance of a priest, though it was usually, not always, contracted at the divine altars and confirmed by oaths. After the Pagan Emperors sacrifices and oaths were not necessary.

By degrees conjugal customs were mitigated, and the wife became a person, and even a proprietor, whom her dowry or personal fortune could protect. Women, single or married, and children were always minors at Athens, where neither parental nor marital power was so extensive as at Rome.

If a man left a portionless daughter her nearest relative was bound to marry her, or to give her a suitable portion. An heiress was bound to marry her nearest relation in the time of Isaeus. The same law (of marrying heiresses) was common to Sparta. In the mature Greek jurisprudence the direct authority of the parent is restricted to the minority of the children.

The family of Sparta for a time was more like that of the Homeric age than like the Athenian family of the classical period. More here than elsewhere were preserved most rigidly and represented most truly the customs of the ancient Greeks—the family and marriage systems to which the early influence of woman was owing.

Spartan mothers maintained a power over their sons when arrived at manhood, of which we find no trace in the rest of Greece.[D] The females were noted for beauty and fine personal appearance. Their morals were, till a later period, purer than those of their Athenian sisters, and great was their influence. The Dower which the wife received was very large. In Greece, the dowry came to be thought almost necessary to make the distinction between a wife and a concubine. So great were the dowers given that in the time of Aristotle, nearly two-fifths of the whole territory of Sparta were supposed to belong to women.

D) "The Dorians," Muller, book iv, c. v. § 1 and 5.

CHAPTER V.

The Family—Rome.[A]

At Rome, the family held a more central position in social and political life than in Greece. Religion, as its foundation, was more strongly impressed; and its morals remained less tarnished till a much later age.

Roman customs conceded to woman a certain liberty of manners which the Greeks would not have tolerated, though public opinion obliged the female to use in great moderation the practical liberty that was left to her.

In truth, the subjection of woman was very great. Legally, she was the property of her husband, who treated her not as his equal, but as his child. St. Monica, the mother of Augustine, cautioned certain

(A) Rome has been more closely interwoven with the history of the civilization of the human race than any other city on the globe. The religion of the Romans had its origin in the worship by each family of its own household and tutelary divinities, in whom the souls of their ancestors were supposed to be enshrined. The religion of the *civitas* consisted in honoring under the name of *numina*, those physical forces of nature, which unpropitiated, might, it was feared, prove dangerous to the safety of the State. The Romans were regarded by the ancients as a most religious people. See the Schaaf-Herzog Encyc., vol. III, p. 2068.

wives of her acquaintance, whose bruised faces evidenced brutal treatment, thus: "Take care to control your tongues * * * It is the duty of servants to obey their masters * * * You have made a contract of servitude."

Marriage was encouraged by the Romans, whose Censors had to impose a tax upon unmarried men; and yet, among these peoples, a widow's remarriage was regarded as an insult to her former consort.[3]

At an early time, the bride was captured, later, she was purchased. In the historical age the nuptial ceremony was in this wise: the bride fled to the lap of her mother, and was carried off by force by the bridegroom and his friends.

Any marriage of a citizen with a woman who was not herself a Roman citizen, or did not belong to a community possessing the privilege of *connubium* with Rome—which was always expressly conferred—was invalid, and the children of the marriage were illegitimate. Patricians and plebeians could not marry till the year 455 B. C., nor were marriages allowed between patricians and clients.

Tacitus confirms Plutarch in saying that in the early days of Rome marriages between first

(3) Marriage after a wife's death was viewed with suspicion. Old Rome highly valued continence under such circumstances.

cousins were unknown. The first person in Roman history to have a pluralty of wives was Mark Anthony, and afterward it became not uncommon, continuing long subsequent to the Christian era. So late as the year 726 A. D. a decretal of Pope Gregory II. allowed a man to have a second wife "if the first is *infirm* and *incapable of conjugal functions.*"

The marriage portion[4] became essentially a mark of distinction for a legitimate wife, whose duty it was to provide a husband with *dos*, and a daughter had a legitimate claim to be provided with a dower by her father or other paternal ancestors. The *dos* became the husband's property, to dispose of independently of the will of the wife. At the end of the Republic the husband's right to dispose of his wife's marriage portion was limited. It had to be restored in the event of divorce, as also at the husband's death.

Concubinage was always well distinguished from legal wedlock, and more common in later than in early times.

(4) Among the Germans of an early age, the bride-price became the exclusive property of the woman. To-day, in Europe and in America, the marriage portion has in many cases become a purchase sum by means of which a father buys a husband for his daughter.

The customs and regulations regarding the wife were at first of a savage atrocity, as may be seen by referring to Lecky's History of European Morals, vol. I. page 312.[A]

In primitive Rome, as in primitive Greece, the right of repudiation was allowed to the husband and *forbidden to* the wife, till the days of the closing history of the Republic, when women first divorced their husbands. Under the Christian Emperors[5] the right to put away the wife was restricted by imperial constitutions, which name what were considered just causes of divorce.[6]

According to ancient Roman usage, there were three forms by which marriage might be contracted. One, and the most important ceremony, was religious; two (for the plebeians) were of a civil character: the one was by a species of sale, *coemptio*

(A) Early Roman law appears to have left the punishment of adultery to private revenge and the jurisdiction of the family. The husband and also the father of the adulteress were allowed to take the law into their own hands, and put to death the two guilty parties.

(5) Rome may be said to have been the centre of the history of the Christian Church. The edict of Milan (312) issued in the joint names of Constantine and Licinius, has been called the "great charter of the liberties of Christianity;" but it was no more than an edict of unlimited toleration. Still, it withdrew official recognition and protection from Paganism; and under its operation the old Roman religion gradually and silently died out. Christianity was not recognized as the official religion till the reign of Theodosius, 380. Whether Constantine was a Christian is an historical problem not easy to solve. He purposely delayed baptism until he was *in articulo mortis*. The Shaaf-Herzog Encyc., vol. III, p. 2070.

(6) By the lex Julia et Papia Poppæa, a husband divorcing a wife for adultery might retain one-sixth of her dowry. Encyc. Brit., 9th ed., vol. VII, p. 300.

venditio;[A] and the other by the simple cohabitation of the parties for a year, which by law constituted a marriage.

At the religious rite, in early patrician times, a cake of Spelt (made of flour, water and salt) was eaten by the groom and his bride, with auspices and offerings, in the presence of twelve witnesses, including the *pontifex maximus* and a *flamen dialis*.

As in Greece, the religious ceremony was in no way essential to the marriage, and at the close of the period of the Pagan Emperors, sacrifices and auspices being regarded as of no significance, were almost exceptional.[6] The essence of matrimony consisted in the consent of the parties to it—civil contract.[7]

(A) A marriage by *coemptio* was dissolved by a form called *remancipatio*. The Lex Julia *de adulteriis* required the presence of seven witnesses to make a divorce valid.

(6) Our marriage ceremonies are all from the Romans: the ring, the veil, the wedding gifts, the groomsmen, and bridemaids, and the bride cake. There is a significant "survival:" "Who giveth this Woman to be married to this Man."

(7) The ancients recognized inferior wives, who yet had rights and whose children were legitimate. The Romans had three sorts of "marriages," which might be simultaneous in any particular case. The highest was a genuine marriage, with certain rites. The children were full heirs: the wife was *mater familias*. In the second sort the wife was called a *uxor tantum* (wife only, in contradistinction to *mater familias*, 'mother'). No formalities were required, only residence for a year uninterruptedly in the man's house. The bond was a loose one, for an absence of three successive nights broke it. The third sort was simple concubinage. The children were not called bastards, yet they could not inherit. This last condition was legalized. The Justinian Code calls it *licita consuetudo* ('allowed custom'). The Schaaf-Herzog Encyc. vol. I, p. 526.

The effect of the religious marriage—the *confarreatio*—could only be destroyed by the *diffarreatio*, in which the wife renounced the worship and the gods of her husband, and then the religious tie being broken, the marriage was at an end.

The husband and father is the centre of the family. "The husband," observes the elder Cato, "is the judge of the wife; his power has no limit; he can do what he wishes." His was the right to command, hers was the duty to obey. Over the children also his control was no less absolute. *Tempora mutantur, et nos mutamur in illis.*

The house-father had, in the earlier time, the power of life and death over his children, whom he could imprison, sell, or kill under an express law of the Twelve Tables. "All in the household," Mommsen remarks, "were destitute of legal rights —the wife and the child no less than the bullock and the slave."

Even the full grown son and his children were subject to the house-father's will. The consent of the *pater familias* was indispensable to the marriage of a child, son and daughter alike.

Justinian observed, "the power which we have over our children is peculiar to Roman citizens; there are no other men possessing such a power

over their children as we have." This authority gradually became a shadow of what it had been.

The plebeian form by which marriage was contracted gave a woman more independence than was possessed by her who entered upon matrimony through the religious rite.

The Roman matron did not lack dignity. She was the object of veneration. She had her place near the sacred fire. *Ut ameris, amabilis esto.*

Rome was built on family discipline, on economy, thrift, and order, and the austere Roman matron was the house mistress. In after times, came avarice, lust of power, luxury, slavery, the decay of religion and the family,[C] and everything in morals fell—the dark picture![D]

(C) "The ladies count their years, not by the consels, but by the number of their husbands."—*Seneca.*

(D) See Livy viii. 18: xc., 37, and Epit. xlviii.

CHAPTER VI.

Woman: Captured—Bought—Sold.

Woman has no rights which man is bound to respect. Burns wrote

> Man's inhumanity to Man,
> Makes countless thousands mourn!

Mr. Burns failed to say:

> Man's cruelty to woman
> Makes numberless millions slaves.[A]

In the very early ages it was the custom to make raids upon the settlements and carry off some of the women, who became the property of the man, his own by right of conquest.[1]

In later times, wives were taken from the female captives: Moses saves the Midianite virgins that

(A) The penal code of Ashur: "If a husband says unto his wife, 'Thou art not my wife,' he shall pay half a mina, and be free. If the wife Separates from her husband she shall be drowned." (George Smith: Assyrian Discoveries.)

(1) In Sweden, even long after the introduction of Christianity, women were often carried off when on their way to the Church to be married. A wedding cortege was a party of armed men, and for greater security, marriages were generally celebrated at night. The groomsmen are said to have been called "best men" in the North from the strongest and stoutest of the bridegroom's friends being chosen for this duty.

they may be given as wives to the captors.[2] The people of Jabesh Gilead were killed, and the Benjaminites appropriated their virgins as their own wives; and in the book of Judges,[3] it is recorded that this tribe, after the oath taken at Mizpeh, secures wives by capture, carrying off by force what number of brides they desired of the daughters of Shiloh.

In time, women the world over were bought and sold as if they were cattle. Lord Kame affirms that "the low condition of women among barbarians introduced the purchasing them for wives, and, consequently, poligamy.[4] The exclusion of females from inheritance was probably nearly if not quite co-extensive with marriage or purchase.

In view of the fact that wives were universally the subject either of capture or purchase in all countries and in all times and among all races, Sir John Lubback[5] maintains that there is ample evidence to show that "the origin of marriage was independent of all sacred and social considerations; that it had nothing to do with mutual affection or sympathy; that it was invalidated by any appearance of consent; and that it was symbolized not

(2) Numbers xxxi. (3) xxxi.
(4) "Sketches of the History of Man." Vol. 1, p. 256.
(5) Origin of Civilization And the Primitive Condition of Man."

by any demonstration of warm affection on the one side and tender devotion on the other, but by brute violence and unwilling submission."[6]

In the Heroic Age, a Greek father disposed of his daughter's hand with absolute authority, and women were purchased by their husbands. Afterwards, wives brought portions. In Zenophon, Cyaxares betroths his daughter to Cyrus, saying, "I give you, Cyrus, this woman who is my daughter, with all Media for a dowry."

The Spartan marriages were performed in secret; the husband stole away, or forcibly carried away,

(6) Among primitive men marriage was, of course, contracted without any ceremony whatever, as it is to-day, with many uncivilized peoples. Marriage ceremonies arose by degrees in various ways.

In Japan the Rite consists in the drinking by both parties, after a prescribed fashion, of a fixed number of cups of wine. In some Brazilian tribes marriage is contracted by the husband and wife drinking brandy together. Among the Orang-Sakai, "the little finger of the right hand of the man is joined to that of the left hand of the woman.

In Croatia, the bridegroom boxes the bride's ears in order to indicate that henceforth he is her master. In Ancient Russia, the father took a new whip, and, after striking his daughter gently with it, presented the whip to the bridegroom. Among the Chukmas, and other peoples, "omens are carefully observed and many a promising match has been put a stop to by unfavorable auguries."

The wedding ring was in use among the Ancient Hindus, where the bride and bridegroom have their hands bound together with grass. Even the religious part of the form at our own weddings has its counterpart among many Pagan nations.

The founder of Christianity prescribed no ceremonies in connection with marriage. In the early Church sacerdotal nuptials were not allowed for widows. Marriage was considered valid without ecclesiastical benediction till A. D. 1563, when the Council of Trent made it an essentially religious ceremony. Luther was of the opinion that all matrimonial affairs belong not to the Church, but to the jurist, and civil marriage implies the necessity of the union being sanctioned by secular authority.

his wife; she was dressed for sometime in man's apparel, to conceal her; while the husband continued to sleep as usual in the public dormitories with his companions, and to see his wife only by stealth, till the birth of a child made him known at once as a husband and a father.

The Babylonians had a law, also followed by the Heneti, an Illyrian people, which ordained that, in every village, once in the year, when girls were of a marriageable age, they were to repair at a certain time to a place where the young men likewise assembled.

They were then sold by the public cryer to the highest bidders, the most beautiful one being first disposed of, afterward, others were sold according to their degrees of beauty. No man was allowed to carry off the woman he had purchased, unless he gave security that he would take her to wife.[7]

In certain parts of Russia, as soon as the early days of summer come, all the single young women are paraded by their parents, each in her best attire and most attractive looks. Bachelors, young and old, glide through the files of beauty ranged on either side.

(7) In Scotland, prior to the Reformation, there was a practice, called "handfasting." "At the public fairs men selected female companions with whom to cohabit for a year. At the expiry of this period both parties were accounted free; they might either unite in marriage or live singly.—*Rev. C. H. Rogers.*

Then, if "creation's lord" sees some one whom he likes better than others, he employs an old woman from a class who live by "matchmaking." This intermediary negotiates with the family of the fair one in the most formal manner. All through these transactions the damsel has no choice in the matter; she does not even see her intended husband.

The Russians preserved, till the last century, a singular institution in the marriage of the Czar. They collected the daughters of the principal nobles, who awaited in the palace the choice of their sovereign. He, with a golden apple in his hand, slowly walked between two lines of contending beauties, and proffered the apple to her whose charms most captivated him.

In the MIDDLE AGES, the state of society was such as to leave a young lady no choice, except between marriage and a nunnery, since it was only by the power of a husband, or by the authority of the Church, that she could be protected from lawless violence.

It was held to be a woman's duty to accept a husband chosen by her father or her friends.[A]

(A) In the ninth and tenth centuries, among the Saxons in England, the young girl could marry herself, was not repudiable at will, had her own property and her keys, and the penal law of her husband ceased to weigh upon her. Wake, Evolution of Morality, vol. I, p. 381.

There were frequent marriages of children, and even later than the time of the Tudors. The right of a young woman to refuse the man whom her friends had chosen was not thoroughly established till sometime in the eighteenth century.[B]

Since the Reformation the legal and economic emancipation of woman has made advances. The present *ideal* bases the family, not upon the despotic authority of a single head, but upon the consenting and harmonious wills of two equals.

> Not from his head was woman took,
> As made her husband to o'erlook;
> Not from his feet as one designed
> The footstool of the stronger kind;
> But fashioned for himself, a bride;
> An equal, taken from his side.

(B) A writer says: "The history of marriage is the history of a relation in which women have been gradually triumphing over the passions, the prejudices, and the selfish interests of men." "Gradually triumphing"—yes, indeed, *very* gradually! Read—The Abbe Hue declares that the judicial annals of China are full of the most tragical events arising from the *perpetual humiliation* and *wretchedness to which the women are reduced*, and that the number of *female suicides* is very considerable. Japanese women are subject to the same *abject dependence* on the male members of the family as Chinese women, and to an *unlimited liability* to divorce.

"Gradually triumphing"—Yes, indeed, VERY gradually! Siberian women are raised as *abject slaves*, untidy in dress, and are *bought* with money or cattle. The *most capricious whim of her husband is law*, to the Siberian woman, and should he desire a *divorce he has only to tear the cap from her head.*

"GRADUALLY triumphing"—Yes, indeed, VERY GRADUALLY! The American woman—one code of morals for *her*, another code of morals for *him*. Damnable! "Where am I at?"

In this country, woman, emancipated by law and custom, gains her freedom. Through trials to triumph. *Lux lucet in tenebris.*

NOW FOR THE RIGHT OF SUFFRAGE, O woman!

It enrages our higher manhood to know that, in most ages and countries the submission of woman has been compelled by brute force, or by the authority of human laws and social usages, or by the ultima ratio of arbitrary divorce.

"Cruel as death, and hungry as the grave."

Ah! woman ought never need a defender. Mother, sister, wife, daughter stand before my entranced vision! I bow to the galaxy!

To chase the clouds of life's tempestuous
hours,
To strew its short but weary way with flow'rs,
New hopes to raise, new feelings to impart,
And pour celestial balsam on the heart;
For this to man was lovely woman giv'n,
The last, best work, the noblest gift of
Heav'n.

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